SUPREME COURT OF THE UNITED STATES.

No. 206.

THE SCHOONER "STEPHEN HART," &c., AND CARGO, JOHN MEYER HARRIS, CLAIMANT OF THE VESSEL, AND SAMUEL ISAAC AND SAUL ISAAC, CLAIM'T OF THE CARGO, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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1 UNITED STATES OF AMERICA,
Southern district of New York, ss:

THE UNITED STATES AND CAPTORS IN INTEREST, libellants,
vs.
THE SCHOONER "STEPHEN HART" AND CARGO.—John Myer Harris, cl't of vessel; Isaac Campbell & Co., cl't of cargo, appellants.
} In prize. 17—81.

I, George F. Betts, clerk of the district court of the United States of America for the southern district of New York, do [SEAL.] hereby certify that the writings annexed to this certificate are true copies of their respective originals on file, and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, this seventh day of November, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the said United States the eighty-eighth.

GEO. F. BETTS, *Clerk.*
ALEX'R KURSHEEDT,
Pr. and Adv. for Cl'ts of Vessel and Cargo, Appellants.

2 OFFICE OF THE UNITED STATES PRIZE COMMISSIONERS
FOR THE SOUTHERN DISTRICT OF NEW YORK,
39 *Chambers st., New York, Feb'y* 14, 1862.

E. DELAFIELD SMITH, Esq.,
U. S. District Attorney:

SIR: Prize Master Johnson, in charge of the prize schooner "Stephen Hart," laden with powder and munitions of war only, asks that he may be immediately relieved from charge of said vessel, it being unsafe to live on board, or have fire or lights on board. I respectfully ask for an order to appraise and deliver her to the naval authorities for protection.

Resp'y, yours,
HENRY H. ELLIOTT,
U. S. Prize Com'r.

Endorsed: Letter of Prize Com'r.

Filed 14 Feb'y, 1862.

3 At a term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Friday, the 14th day of February, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c., AND HER CARGO.

On reading and filing the annexed communication from Henry H. Elliott, esq., prize commissioner, and on motion of E. Delafield Smith, esq., U. S. district attorney, it is ordered that the prize commissioners be, and they hereby are, authorized to place all of the cargo of the above-named schooner Stephen Hart, which consists of army powder and munitions of war, in the custody of the commandant of the United States navy yard at this port, to be by him kept with the same effect as if still in the personal custody of the prize commissioners.

And it is further ordered that the prize commissioners do make an inventory of all articles so delivered by them to said commandant, and file said inventory in the registry of this court; and that at the time of such delivery, or prior thereto, the said powder be appraised by A. G. Hazard, esq., as sole appraiser, and the arms and other munitions of war by Orison Blunt, esq., as sole appraiser, and their report filed with the said inventory of the prize commissioners.

SAM'L R. BETTS.

4 Filed the 14th day of Feb'y, 1862.

5 United States district court, southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART AND HER CARGO. } In admiralty.

I, the undersigned, having been appointed sole appraiser to appraise the value of the arms and other munitions of war on board of schooner Stephen Hart, pursuant to the order of appraisement the court made in the above cause on Friday, 14th of February, 1862, do solemnly swear that I will faithfully appraise the same to the best of my skill and ability.

ORISON BLUNT.

Subscribed and sworn to this 17th day of February, 1862, before me.

JOHN A. OSBORN,
U. S. Comm'r.

Endorsed: 17, 81. In prize. United States district court, southern district of New York. The United States *vs.* The schooner Stephen Hart and her cargo. Appraiser's oath.

Filed Febr'y 17, 1862.

6 OFFICE OF THE U. S. PRIZE COMMISSIONERS
FOR THE SOUTHERN DISTRICT OF NEW YORK,
39 *Chambers st., New York, Feb'y* 17, 1862.

SIR: By an order of the court, under date of the 14th inst., A. G. Hazard was appointed an appraiser of the powder on board the prize Stephen Hart. I have learned on inquiry that Mr. Hazard is not in the city, and I respectfully suggest that Mr. Orison Blunt, who has been appointed to appraise the arms on board that vessel, be authorized to appraise the powder at the same time.

Very respectfully, yours,
HENRY H. ELLIOTT,
U. S. Prize Com.

E. DELAFIELD SMITH, Esq.,
U. S. Dist. Att'y.

Endorsed: Letter of H. H. Elliott, esq., U. S. prize com'r. Filed July 18, 1862.

7 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday the 18th day of February, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c., AND HER CARGO. } In prize.

On reading and filing the annexed communication of Henry H. Elliott, esq., U. S. prize commissioner, and on motion of E. Delafield Smith, esq., U. S. district attorney, it is ordered that the appointment of A. G. Hazard, esq., as appraiser of the powder laden on board the schooner Stephen Hart, be, and the same is hereby, revoked, and that Orison Blunt, esq., be, and he is hereby, appointed sole appraiser of the cargo of said schooner.

SAM'L R. BETTS.

8 Filed the 18th day of Feb'y, 1862.

9 District court of the United States for the southern district of New York.

THE UNITED STATES, &c.,
vs.
THE SCH'R STEPHEN HART AND HER CARGO. } In prize.

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The libel of information, in prize, filed herein by E. Delafield Smith, district attorney of the United States for the said district,

for and on behalf of said libellants, as well as all others who may be interested therein, respectfully represents—

I. (First.) That on the 29th day of January, 1862, the ship-of-war "Supply," of the navy of the United States, George M. Colvocoresses, commander, in or about the latitude of 24° 12″ north, and longitude 82° 31″ west, near the southern coast of Florida, made capture of the above-named schooner, Stephen Hart, with her cargo on board, consisting principally of arms, ammunition, military stores, and supplies, as lawful prize.

II. (Second.) That said schooner with her cargo were, directly after said capture, placed in charge of a prize master and sent to the port of New York for adjudication, under convoy of said ship "Supply," and the same have arrived, and are now at said port, and within the jurisdiction of this court.

III. (Third.) The libellants aver that the said vessel and her cargo are lawful prize; in attestation of which, and of the several grounds thereof, the papers and documents found aboard, and the testimony taken *in preparatorio*, will be duly filed in the registry of this court, and produced on the hearing hereof.

Wherefore the libellants pray that due process of monition and attachment may issue herein, and that, after due proceedings had, said vessel and cargo may be condemned and sold by the decree of this court as lawful prize, and that, thereafter, such proceedings may be had for the disposition of said captured property or its proceeds as are in conformity with the practice of this court and the laws of the United States in such case provided.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

February 17, 1862.

Endorsed: In prize, 17, 81. U. S. district court. The United States *vs.* The schooner Stephen Hart and her cargo. Libel.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Filed Feb'y 18, 1862.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York, greeting:

[SEAL.] Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the eighteen day of February, in the year of our Lord one thousand eight hundred and sixty-two, by E. Delafield Smith, esquire, U. S. district attorney, on behalf of the United States of America, against the schooner Stephen Hart, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner, her tackle,

&c., and cargo, may be cited, in general and special, to answer the premises; and all proceedings being had, that the said schooner, her tackle, &c., and cargo, may, for the causes in the said libel mentioned, be condemned as lawful prize to the use of the United States.

You are, therefore, hereby commanded to attach the said schooner, her tackle, &c., and cargo, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court to he held in and for the southern district of New York, on the eleventh day of March next, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you shall have done in the premises, do you then and there make return thereof, together with this writ.

Witness the honorable Samuel R. Betts, judge of the said court, at the city of New York, in the southern district of New York, this eighteenth day of February, in the year of our Lord one thousand eight hundred and sixty-two, and of our independence the eighty-sixth.

GEO. F. BETTS, *Clerk.*
E. DELAFIELD SMITH,
U. S. District Attorney.

12 In obedience to the within monition, I attached the schooner Stephen Hart, her tackle, &c., therein described, on the 18th day of February, 1862, and have given due notice to all persons claiming the same that this court will, on the 11th day of March inst., if that day should be a day of jurisdiction, if not, on the next day of jurisdiction thereafter, proceed to the trial and condemnation thereof, should no claim be interposed for the same.

ROB'T MURRAY,
U. S. Marshal.

Dated March 11th, 1862.
Cargo of the above vessel taken for the use of the government.

Filed the 11th day of March, 1862.

13 Dist. court of the United States.

THE UNITED STATES
vs.
THE STEPHEN HART, &c., AND HER CARGO.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

John Liesk, being sworn, says: That in giving his testimony herein before the prize commissioner, he finds, upon referring to the same,

that he did not fully answer the 32d interrogatory in relation to the papers on board, and their discovery, and what was said upon their being discovered. Deponent testified to these facts on board the ship, and desires to state them in his evidence now.

JOHN LEISK.

Sworn to before me this 25th day of February, A. D. 1862.

HENRY H. ELLIOTT,
U. S. Prize Comm'r.

Upon the foregoing affidavit, and on motion of the dist. att'y, it is ordered that the prize commissioner, who examined the witness above named, propound to him anew the 32d standing interrogatory, and receive and add to his deposition his additional answer thereto, with the like force and effect as if the same had been taken at the time of his original examination.

SAM'L R. BETTS.

14 Endorsed: In prize, 17, 81, U. S. district court. The United States *vs.* The Stephen Hart and her cargo. Affid't and order; motion granted Feb'y 25, 1862.

S. R. B.

Filed Feb'y 25, 1863.

15 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court rooms, in the city of New York, on Tuesday, the 25th day of February, in the year of our Lord one thousand eight hundred and sixty two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo. } In prize—17, 81.

Ordered, that the notice for publication in the above-entitled action be extended seven days, viz: from the 4th to the 11th day of March, 1862.

SAM'L R. BETTS.

16 Filed the 25th day of Feb'y, 1862.

17 Southern district of New York, U. S. district court.

THE UNITED STATES
against
THE SCHOONER STEPHEN HART AND HER CARGO.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Alexander Kursheedt, proctor for the claimants of the above vessel and cargo, being duly sworn, says: That in a conversation held by

him with John Leisk, the steward and cook of the above-named vessel, said Leisk informed this deponent that one of the boarding officers, by the name of Johnson, had said to said Leisk, that he, Leisk, wouldn't sustain any loss, and would be recompensed for any information he, Leisk, would give, or discoveries he would make touching the forfeiture of the vessel; and said Leisk and the captain informed this deponent further, that Nellman, the second mate or boatswain, was being and had been rewarded and influenced by the captors, or some of their agents.

And further deponent saith not.

ALEX'R KURSHEEDT.

Sworn to before me this 27th day of February, 1862.

A. C. WILLMARTH,
Notary Public.

18 Endorsed: In prize, 17, 81, U. S. dist. court. The U. S. *vs.* Schooner Stephen Hart, &c., and cargo. Affidavit on mo. to re-examine Leisk.

A. KURSHEEDT,
Proctor for Claimants.

Filed Feb'y 27, 1862.

19 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court rooms, in the city of New York, on Thursday, the 27th day of February, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo. } In prize—17, 81.

The district attorney having consented that the motion made herein, on the part of the libellants, *ex parte*, on the 25th instant, for the re-examination of John Leisk, on the 32d interrogatory *in preparatorio*, be now re-argued; and the claimants appear, and the proctor for the claimants having consented that the re-examination of said Leisk, taken on the said 25th instant, on said 32d interrogatory, under said order, may stand as his answer thereto, the same as if taken subsequently to this argument, in case the decision herein should be in favor of the libellants: Now, the district attorney having been heard in support of said motion, and Messrs. Donohue and Kursheedt, advocates for the claimants, having been heard on affidavit in opposition thereto, and the court having duly considered the arguments and the premises, it is ordered that the said John Leisk be re-examined by one of the U. S. prize commissioners, on the 32d interroga-

tory *in preparatorio;* and upon the consent of the claimants aforesaid, it is further ordered that the answer of said Leisk, taken by one of the U. S. prize commissioners, on the said 25th instant, to said 32d interrogatory, stand with the same effect as if taken subsequently to this order.

SAM'L R. BETTS.

20 Filed the 27th day of February, 1862.

Southern district of New York, U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and her cargo.

Please take notice that, upon the instructions of the Navy Department, under date of February 25th and 28th, 1862, of which copies are herewith served upon you, I shall move, before his honor Samuel R. Betts, judge of the U. S. district court, &c., at the rooms of said court, in the city of New York, on Monday, the third day of March, 1862, at 11 o'clock in the forenoon, or as soon thereafter as I can be heard, for an order directing all the Enfield rifles in the cargo herein to be appraised by Orison Blunt, esq., and after such appraisement to be delivered to Flag-Officer Hiram Paulding, the commandant of the navy yard, New York, the value of said rifles, at the appraised price, to be deposited as the court may direct by the Navy Department.

Yours, &c.,

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

TO ALEXANDER KURSHEEDT, Esq.,
Proctor for Claimants.

February 28, 1862.

21 NAVY DEPARTMENT,
February 25, 1862.

SIR: I am informed by the chief of the Bureau of Ordnance, &c., and concur with him in the opinion, that the "Enfield rifles," which made part of the cargo of the sch'r "Savannah," captured by the U. S. ship Supply, are urgently needed for the use of the navy. They should, therefore, be placed at the immediate disposal of the department, in conformity with the 6th art., 1st section, of the "act for the better government of the navy," approved April 23, 1800. The value of these arms, at the appraised price, will be deposited as the court may direct.

You are requested to make such arrangements with the marshal or court, if necessary, as will place the rifles in the possession of the commandant of the navy yard at New York.

I am, resp'ly, your obed't serv't,
(S'g'd) GIDEON WELLES.

E. DELAFIELD SMITH, Esq.,
U. S. Dist. Att'y, New York.

NAVY DEPARTMENT,
February 28, 1862.

SIR: The Enfield rifles alluded to in a recent letter from the department were taken from the sch'r "Stephen Hart," instead of the "Savannah," as stated.

Very respectfully,

GIDEON WELLES.

To E. DELAFIELD SMITH, Esq.,
U. S. Dist. Attorney, New York.

Endorsed: 17, 81. U. S. dist. court. The United States *vs.* The Schooner Stephen Hart and cargo. Copy instructions of Navy Dep't, and notice of motion. E. Delafield Smith, U. S. dist. att'y.

Due service of a copy of the within is hereby admitted.

A. KURSHEEDT, *for Cl'm't.*

March 1, 1862.

Field March 3d, 1862.

22 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court rooms, in the city of New York, on Monday, the third day of March, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo.

On reading and filing notice of this motion, with copies of letters of instruction from the Secretary of the Navy, and on hearing the district attorney of the United States in support of the motion, and Alexander Kursheedt, esq., in opposition thereto, it is ordered that all the Enfield rifles in the cargo herein be appraised by Orison Blunt, esq., of this city, as appraiser, and that, after such appraisement has been made and filed with the clerk of this court, all said rifles be delivered to Flag-Officer Hiram Paulding, U. S. N., the commandant at the navy yard at New York, for the use of the navy, and that the value of said rifles, at the appraised price, be deposited by the Navy Department in the registry of this court in this cause, subject to the further order of the court in the premises.

April 16, 1862. The following addition to the above order is directed by the court, on the motion of the district attorney, Mr. Kursheedt, proctor for the claimant, appearing:

"And that the same proceedings having been had, the said prize commissioners may deliver to said Flag-Officer Paulding, for the use of the navy, any other articles in said cargo not already
23 taken by and for the use of the War Department."

SAM'L R. BETTS.

Filed the 3d day of March, 1862. Refiled 16th April, 1862.

24 U. S. district court, southern dist. of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and her cargo.

Please take notice that on the letter of instructions of the Secretary of War, under date of February 24, 1862, a copy of which is hereby served upon you, I shall move, before his honor Samuel R. Betts, judge of the U. S. district court, &c., at the rooms of said court, in the city of New York, on Tuesday, the 4th day of March, 1862, at 11 o'clock in the forenoon of that day, or as soon thereafter as I can be heard, for an order directing that the cargo herein be appraised by Major P. V. Hagner, U. S. A., ordnance service, as appraiser, and that after such appraisement all of said cargo, with the exception of the Enfield rifles, or so much of said cargo as the United States ordnance officer herein before named may desire to have delivered to him, be delivered by the prize commissioners to said Major P. V. Hagner, the United States ordnance officer, at this city, for the use of the War Department, to be accounted for to whom it may concern by said department.

Yours, &c.,

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

To ALEXANDER KURSHEEDT,
Proctor for Claimants.

New York, March 3d, 1862.

25 WAR DEPARTMENT,
Washington City, D. C., February 24, 1862.

To the United States Prize Commissioners for the southern district of New York:

GENTLEMEN: This department being informed that a large part of the cargo of the "schooner Stephen Hart," lately taken as a prize by the United States steamer "Supply," now in your charge, consists of arms and munitions of war, which are suitable for the military service of the United States, you will please cause such part of said cargo as may be received by the United States ordnance officer to be turned over to him after appraisement, to be accounted for to whom it may concern by this department.

Respectfully, yours,

EDWIN M. STANTON,
Secretary of War.

PRIZE COMM'R'S OFFICE,
February 28, 1862.

I hereby certify that I have compared this copy with the original letter on file at this office, and find it a true copy thereof.

(Signed) HENRY H. ELLIOTT, *Prize Court.*

Endorsed: 17, 81. In prize. U. S. district court. The
26 United States *vs.* The Schooner Stephen Hart and her cargo. Notice of motion and copy letter of Sec'y of War. E. Delafield Smith, U. S. dist. att'y.

Due service of a copy of within copy letter and notice of motion is hereby admitted.
March 4th, 1862.

ALEX. KURSHEEDT,
Proctor for Cl'm'ts.

Filed March 4th, 1862.

27 At a stated term of the district court of the United States of America, for the southern district of New York, held at the United States court rooms, in the city of New York, on Tuesday, the fourth day of March, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES OF AMERICA
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and her cargo.

On reading and filing notice of motion with copy of letter of instructions from the Secretary of War, under date of February 24th, 1862, and admission of service upon the proctor for the claimants; and on hearing the U. S. district attorney in support of the motion, and Mr. Kursheedt in opposition thereto, it is hereby ordered, that the cargo herein, excepting the Enfield rifles, be appraised by Major P. V. Hagner, U. S. A., and Orison Blunt, esq., hereby appointed by the court as appraisers, and that after such appraisement all of said cargo, with the exception of the Enfield rifles, (heretofore ordered to be delivered to Flag-Officer Hiram Paulding, for the Navy Department,) or so much of said cargo as the United States ordnance officer, hereinafter named, may desire to have delivered to him, be delivered by the United States prize commissioners, to said Major P. V. Hagner, U. S. A., the United States ordnance officer at this city, for the use of the War Department, to be accounted for to whom it may concern by said department, and that previous to the delivery of such appraised materials to the use of the United States, the amount of such appraisement or such responsibility therefor as
28 shall be agreed and stipulated by the proctors to this suit, shall be deposited in the registry of the court to abide the further order of the court in this suit.

SAM'L R. BETTS.

Filed the 4th day of March, 1862.

29 At a stated term of the district court of the United States of America, for the southern district of New York, held at the

United States court-rooms, in the city of New York, on Tuesday, the eleventh day of March, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo. } In prize—17, 81.

The marshal having returned the monition issued in the above-entitled cause, the "Schooner Stephen Hart, her tackle, &c., attached; notice given; proclamation made; cargo of the above vessel taken for the use of the government."

Mr. Kursheedt appears for the claimants, who have 23 days to answer.

Mr. Kursheedt files affidavit for time requisite to hear from owners in England.

30 Filed the 11th day of March, 1862.

31 U. S. district court, S. D. of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART AND HER CARGO.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Alexander Kursheedt, proctor for the claimants of the above vessel and her cargo, as he believes, being duly sworn, says, that on the 18th day of February, 1862, and again on the 21st day of February, 1862, and again on the 26th day of February, 1862, he wrote to, as he is informed and believes, the owners of the Stephen Hart, and her cargo; that said owners, as represented to him, are residents of England; that deponent, in due course of mail, ought to receive instructions, claim, and test-oath from both owners of vessel and cargo; and that the period of thirty days, although a shorter period may bring the claims and test-oaths, is necessary in this suit.

ALEX'R KURSHEEDT.

Sworn to before me this 4th day of March, 1862.

JOHN A. OSBORN,
U. S. Comm'r.

Endorsed: 17, 81. U. S. dist. court, S. D. of New York. United States *vs.* Schooner Stephen Hart, and her cargo. Affidavit.

ALEX. KURSHEEDT,
Proctor Cl'm'ts, &c.

Filed March 11, 1862.

32 United States district court, southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART AND HER CARGO. } In prize.

I, the undersigned, having been duly appointed and sworn as sole appraiser to appraise the value of the arms and other munitions of war on board of the Stephen Hart, a schooner captured as prize, now lying off the navy yard, Brooklyn, would respectfully report, that I did post a notice of my intentions to appraise the above-mentioned cargo, and after the time having expired required by law for such a notice, I proceeded on board of the schooner Stephen Hart, laying off the Brooklyn navy yard, in charge of Commodore Paulding, who informed me it was contrary to their rules to have a vessel lay alongside of the dock with powder or ammunition on board, as it was supposed this vessel had a large quantity of powder in her cargo. I commenced immediately to discharge the cargo from the main hatch without any invoice or register, and lightered the same on shore and stowed them in the ordnance store in the navy yard, taking an accurate account of every case, box, and bale, their numbers and marks. The prize master, having charge of the vessel, also took an account;
and the storekeeper, having charge of the ordnance store,
33 took the same account as he received.

This vessel was stowed with great care, and the bales and cases pressed in with jack-screws, and required great precaution in breaking out, for fear of an explosion of some of the ammunition or loaded shell. Upon opening the after-hatch and breaking out some of the cases, there were found some 4 tons of powder, and also 1,008 loaded shell, with percussion primers, all affixed, and some 600,000 ball cartridges or fixed ammunition for small arms, which were all removed without an accident and placed in the magazines of the navy yard. After the vessel was entirely discharged and the cargo all placed in the ordnance store in good condition without any loss or damage, I then commenced and opened every entire case and bale, inspected and counted every article in such case or bale, accurately, and found them all in good condition, and repacked them the same as in their original condition, this being the only way I could arrive correctly at the numbers, quantity, and qualities. I found every article to be of value for use in our own army and navy, except a large quantity of rebel buttons—these buttons having been manufactured in Great Britain for the use of the rebel army, and stamped with a rebel device. I was unable to put any value upon them except that of old brass.

I find, on such examination, as follows:

34 287 cases of long Enfield rifles, $\frac{58}{100}$ bore, triangular bayonets with implements, each case containing 20 arms, at $18 00, in all 5.740 ..... $103,320 00
287 arm chests for the above, at $1 50 ..... 430 50

108 cases of short Enfield rifles, $\frac{58}{100}$ bore, sabre bayonets and triangular bayonets, assorted, with implements, each case containing 20 arms, in all 2,160, at $18 00	$38,880 00
108 arm chests for the above, at $1 50	162 00
33 cases of carbines, $\frac{58}{100}$ bore, Enfield pattern, rifled, with sabre bayonets, implements complete, each case containing 20 arms, in all 660, at $14 00	9,240 00
33 arm chests for the above, at $1 50	49 50
20 bales of cartridge paper for Enfield rifles and other small arms, weighing in all (13,597 gross weight, 400 tare) 13, 197 lbs., at 5 c. per lb.	659 85
132 cases of British rifled muskets, with triangular bayonets, each case containing 20 arms, pattern of 1851, $\frac{72}{100}$ bore, in all 2,640, at $7 00	18,480 00
10 cases of British muskets, smooth bore, triangular bayonets, $\frac{75}{100}$ bore, each case containing 20 arms, in all 200, at $4 00	800 00
35 16 cases of Brunswick rifles, sabre bayonets, each case containing 20 arms, in all 320, at $10 00	3,200 00
16 cases for the above, at $1 50	24 00
15 cases, each containing 25 cavalry sabres, iron scabbards, 375 in all, at $1 50	562 50
12 sets of large screw stocks, dies and taps, with wrench, at $16 00 a set	192 00
6, the same as the above, small, at $8 00 a set	48 00
1 case containing 5,000 cones for Enfield rifles, at $30 per M	150 00
10 sets of steel letters, at $3 00 per set	30 00
9 sets of figures, at $1 00 per set	9 00
9 hammers and rests, at 4s. each	4 50
[Error—entered again hereafter.] 1,000 black leather gun slings, at 2 c. each,	20 00
11 pairs of panniers of medicine, at $40 00 per p'r.	440 00
1 case of medical lint, 200 lbs., at 70 c. per lb	140 00
36 170 bales of gray blankets, each bale cont'g 40 blankets, weighing 4¾ lbs. the blanket; number in all 6,800, at $1 00 per blanket	6,800 00
40 bales of white blankets, each bale cont'g 40 blankets, each blanket weighing 5 lbs; number of blankets in all 1,600, at $1 50 per blanket	2,400 00
3 bales of white blankets, each containing 50 blankets each blanket weighing 5¼ lbs., number of blankets in all 150, at $1 50 per blanket	225 00
6 cases containing bayonet scabbards, pattern of 1851, in all 4,250, at 20 c. each	850 00
2 cases containing sergeants' equipments, 75 in each case, 150 sets, at $1 10 per set	165 00
2 cases at 4*s*	1 00

4 cases containing Enfield rifled-musket, bayonet scabbards, 2 cases, 700 each		1,400	
1 " 800		800	
1 " 570		570	
In all	2,770		
at 20 cts. each			554 00
4 cases at 4 *s.*			2 00
37 2 cases containing 2 each, 4 in all, of Captain Blakely's rifle-cannon, $2\frac{3}{4}$-inch bores, carries 6-p'dr. shot, at $50 00 each			200 00
2 cases at 4 *s.*			1 00
1 case containing 2,000 bags made of serge for Blakely's cannon cartridges, at 6 c. each			120 00
1 case at 50 c			50
56 cases, each case containing 18 shell for Blakely's rifle-cannon, $2\frac{3}{4}$ bore, loaded and capped, in all 1,008, covered with lead, at 25 c. each			252 00
84 cases containing Enfield rifle fixed ammunition cartridges.			
24 cases, 2,500 in each	60,000		
60 cases, 1,000 " "	60,000		
In all	120,000		
at $13 00 per M			1,560 00
2 cases containing 50,000 each percussion caps, 100,000 in all, at 75 c. per M			75 00
2 cases at 4*s.*			1 00
8 cases of gun slings, containing as follows:			
* 2 cases, 500 each, 1,000, at 2 c. each			20 00
3 " 800 " 2,400, at 10 c. "			240 00
3 " 700 " 2,100, at 10 c. "			210 00
8 cases at 4 *s.*			4 00
38 27 cases, containing 80 pouches each, or cartridge boxes, 2,160 in all, at 30 c			648 00
27 cases, at 4*s.*			13 50
93 cases of knapsacks, as follows:			
25 cases, containing 40 each, 1,000			
58 " " 45 " 2,610			
1 " " 35 " 35			
9 " " 50 " 450			
In all	4,095 at $1 00 each		4,095 00
93 cases at 4 s.			46 50

* These 1,000 gun slings are entered twice in this list, they being the same lot as are entered on the second page hereof, and noted in the margin as an error. They are accordingly deducted at foot.

41 cases containing ball-bags, waist-belts, body-belts and frogs.
39 cases containing 100 each, 3,900 sets.
1 " " 60 60 "
1 " " 40 40 "

In all..... 4,000 " at $1 10 per set 4,4000 00
41 cases at 4*s*..... 20 50
100 cases containing 100 each of Brunswick rifle cartridges, $\frac{64}{100}$ of an inch bore, at $13 00 per M..... 1,300 00
410 cases containing Minié rifle cartridges for $\frac{69}{100}$ of an inch calibre, each case cont'g 1,000, at $13 00 per M..... 5,330 00
39 5 cases containing cartridges for smooth-bore English muskets, $\frac{75}{100}$ of an inch bore, 1,000 in each case, round ball and two buck shot, at $13 per M..... 65 00
[W. D. H. mark.] 8 bales of gray army cloth—
Bale No. 3 containing 145 yards.
" " 12 " 194 "
" " 7 " 195 "
" " 9 " 194 "
" " 8 " 194 "
" " 13 " 191 "
" " 11 " 191 "
" " 10 " 242 "

In all..... 1,546 yds., at $1 25 per yd. 1,932 50
40 [W. D. H.] 54 bales of steel-mixed gray army cloth for uniforms, as follows:
Bale No. 477, 4 pieces, containing 205 yds.
" " 483, 4 " " 209½ "
" " 449, 4 " " 208½ "
" " 464, 4 " " 208½ "
" " 437, 4 " " 213 "
" " 313, 6 " " 264 "
" " 446, 4 " " 211½ "
" " 480, 4 " " 207½ "
" " 467, 4 " " 206 "
" " 462, 4 " " 206 "
" " 443, 4 " " 210 "
" " 451, 4 " " 209 "
" " 482, 4 " " 211 "
" " 472, 4 " " 207 "
" " 441, 4 " " 211 "
" " 455, 4 " " 209 "
" " 478, 4 " " 207 "
" " 460, 4 " " 206 "
" " 471, 4 " " 208½ "
" " 457, 4 " " 207½ "

Bale No.	484,	4	pieces,	containing	210½	yds.
" "	440,	4	"	"	211	"
" "	469,	4	"	"	207½	"
" "	479,	4	"	"	206½	"
" "	473,	4	"	"	207½	"
" "	450,	4	"	"	209½	"
" "	481,	4	"	"	207	"

41

" "	461,	4	"	"	210	"
" "	475,	4	"	"	209	"
" "	442,	4	"	"	210½	"
" "	445,	4	"	"	210	"
" "	436,	4	"	"	207½	"
" "	438,	4	"	"	210	"
" "	439,	4	"	"	207½	"
" "	466,	4	"	"	208½	"
" "	485,	4	"	"	209½	"
" "	477,	4	"	"	205	"
" "	486,	5	"	"	257½	"
" "	474,	4	"	"	207	"
" "	456,	4	"	"	208	"
" "	448,	4	"	"	207	"
" "	454,	4	"	"	209	"
" "	476,	4	"	"	207½	"
" "	468,	4	"	"	203½	"
" "	459,	4	"	"	207	"
" "	453,	4	"	"	207½	"
" "	458,	4	"	"	206½	"
" "	447,	4	"	"	209½	"
" "	470,	4	"	"	244	"
" "	465,	4	"	"	209½	"
" "	487,	5	"	"	266½	"
" "	463,	4	"	"	208	"
" "	444,	4	"	"	211½	"
" "	452,	4	"	"	211½	"

	11,453½ yds., at $1 25 pr. yd	$14,316 87
42	Case No. 24.—1 case, containing 210 gross of brass buttons for infantry, artillery, and cavalry for the rebel army, marked C. S. A., weighing 315 lbs., at 8 c. per lb	25 20
	29½ lbs. of drab sewing silk, at $5 00 per lb	147 50
	Case No. 25.—1 case, containing 180 gross of brass buttons, marked as the above, weighing 270 lbs., at 8 c. per lb	21 60
	40 gross of black buckles, at $1 00 per gross	40 00

Case No. 1.—1 case, containing 150 gross of brass buttons, marked as the above, weighing 225 lbs., at 8 c. per lb.	$18 00
Case No. 26.—1 case, containing 85 gross of brass buttons, marked as the above, weighing 125 lbs., at 8 c. per lb	10 00
20 bales, containing stockings, as follows:	
19 bales, containing 50 doz. each	
1 " " 36 " making, in all, 986 doz., or 11,832 prs. of stockings, at 20 c. per pr.	2,366 40
3 bales, containing 1,200 prs. each, 3,600 prs. in all, at 20 c. per pr	720 00
20 cases, containing brogan shoes, extra quality, 100 prs. in each case; in all, 2,000 prs., at $1 75 per pr.	3,500 00
20 cases, at 4s.	10 00
43 8 cases, containing russet shoes, Blucher pattern, as follows:	
6 cases, 75 prs. each	
1 " 80 " "	
1 " 62 " " making, in all, 592 prs., at $1 00 per pr	592 00
8 cases, at 4s.	4 00
10 cases, containing black leather shoes, Blucher pattern, as follows:	
9 cases, 75 prs. each	
1 " 87 " making, in all, 762 prs., at $1 75 per pr.	1,333 50
4 cases, containing water-proof covers for mess tins:	
3 of 530 each	
1 " 570, making, in all, 2,220, at 3 c. each	66 60
Mark [W. D. H.] Case No. 14.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,253 yds. Silesia sleeve linings, at 10 c. per yd	125 30
7 gross blue square cord, at $5 00 pr. gross	35 00
4 " woollen tracing cord, at $3 00	12 00
Case No. 17.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,166 yds. Silesia sleeve linings, at 10 c. pr. yd	116 60
13 gross black woollen square cord, at $5 00 pr. gross	65 00
4 " " " tracing braid, at $3 00 "	12 00
44 Case No. 12.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,145 yds. black Silesia sleeve linings, at 10 cts. per yd.	114 50
32 gross blue woollen tracing braid, at $3 per gross	96 00
Case No. 10.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,154 yds. brown Silesia, for sleeve linings, at 10 cts. per yd.	115 40
4 gross blue square woollen cord, at $5 per gross	20 00
12 gross blue woollen tracing braid, at $3 per gross	36 00

Case No. 11.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,168 y'ds black Silesia sleeve linings, at 10 cts. per y'd	$116 80
26 gross pantaloon lace, at $1 25 per gross	32 50
Case No. 3.—1 case, containing trimmings for army clothes and uniforms, as follows:	
120 y'ds drab Silesia sleeve linings, at 10 cts. per y'd	120 90
80 lbs. drab thread, at 75 cts. per lb	60 00
Case No. 5.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,260 y'ds drab Silesia sleeve linings, at 10 cts. per y'd	126 00
7 gross blue square cord, at $5 per gross	35 00
4 gross blue tracing braid, at $3 per gross	12 00
45 Case No. 16.—1 case, containing trimmings for army clothes and uniforms, as follows:	
515 y'ds drab Silesia sleeve linings, at 10 cts per y'd	51 50
33 gross black square cord, at $5 per gross	165 00
3 gross black tracing braid, at $3 per gross	9 00
Case No. 15.—1 case, containing trimmings for army clothes and uniforms, as follows:	
131 y'ds of buckram, at 5 cts. per y'd	6 55
6 gross blue square trimming cord, at $5 per gross	30 00
Case No. 9.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,212 y'ds brown Silesia sleeve linings, at 10 cts. per y'd	121 20
7 gross blue square cord, at $5 per gross	35 00
4 gross blue tracing braid, at $3 per gross	12 00
Case No. 4.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,521 y'ds sleeve linings, drab Silesia, at 10 cts. per y'd	152 10
Case No. 6.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,153 y'ds brown Silesia sleeve linings, at 10 cts. per y'd	115 30
7 gross blue square cord, at $5 per gross	35 00
2 gross blue tracing braid, at $3 per gross	6 00
46 Case No. 7.—1 case, containing trimmings for army clothes and uniforms, as follows:	
1,150 y'ds drab Silesia sleeve linings, at 10 cts. per y'd	115 00
14 gross black square cord, at $5 per gross	70 00
Case No. 18.—1 case, containing trimmings for army clothes and uniforms, as follows:	
34 gross black square cord, at $5 per gross	170 00
54 gross black tracing braid, at $3 per gross	162 00
Case No. 22.—1 case, containing trimmings for army clothes and uniforms, as follows:	
84 lbs. of black thread, at 65 cts. per lb	54 60
12 lbs. of white thread, at 65 cts. per lb	7 80
72 prs. of scissors, at 1s. per pair	9 00
2 doz. of thimbles, at 12 cts. a doz	24
84 gross of wood buttons, at 30 cts. per gross	25 20

57 gross of horn buttons, at 30 cts. per gross		$17 10
20 gross of hooks and eyes, at $1 per gross		20 00
No number.—1 case, containing trimmings for army clothes and uniforms, as follows:		
25 prs. of scissors, at 1*s.* per pair		3 12
5 prs. of shears, at 4*s.* per pair		2 50
77 gross of wood buttons, at 30 cts. per gross		23 10
10 gross of wood buttons, at 30 cts. per gross		3 00
56 y'ds of canvas, at 5 cts. per y'd		2 80
13 gross of hooks and eyes, at $1 per gross		13 00
61 lbs. of black thread, at 50 cts. per lb		30 50
47 No number.—1 case, containing trimmings for army clothes and uniforms, as follows:		
13½ gross of pantaloon braid, at $1 25 per gross		16 87
11 gross of blue square cord, at $5 per gross		55 00
583 y'ds of slate linen, at 10 cts. per y'd		58 30
328 y'ds of brown canvass, at 12 cts. per y'd		39 36
Bale No. 19.—1 bale, containing trimmings for army clothes and uniforms, as follows:		
1,818 y'ds of steel-mixed alpaca, at 10 cts per y'd		181 80
Bale No. 20.—1 bale, containing trimmings for army clothes and uniforms, as follows:		
1,821 y'ds steel-mixed alpaca, 18 cts. per y'd		327 78
Bale No. 12.—1 bale, containing trimmings for army clothes and uniforms, as follows:		
115 yd's black Silesia sleeve linings, at 10 cts. per y'd		11 50
250 yd's brown canvas, at 10 cts. yer y'd		25 00
{ W. D. } { H. } Bale No. 23.—1 bale, containing 4 pieces (109 y'ds) of scarlet cloth for army uniforms, at $2 50 per y'd		272 50
48 8 bales, containing white twilled flannel for lining for army overcoats, as follows:		
Bale No. 431.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 432.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 433.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 429.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 436.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 435.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 434.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
Bale No. 430.—1 bale, containing 25 pieces, 25 y'ds each	625 y'ds;	
In all	5,000 y'ds;	

	At 16 cts. per y'd	$800 00
{ W. D. H. }		
	5 bales, containing white twilled flannel and brown Holland for lining for army overcoats, as follows:	
	Bale No. 13.—1 bale, cont'g 20 pieces flannel, 25 y'ds each, 500 y'ds; and 13 pieces brown Holland, 451 y'ds;	
	Bale No. 15.—1 bale, cont'g 20 pieces flannel, 25 y'ds each, 500 y'ds; and 13 pieces brown Holland, 451 y'ds;	
	Bale No. 12.—1 bale, cont'g 20 pieces flannel, 25 y'ds each, 500 y'ds; and 13 pieces brown Holland, 451 y'ds;	
	Bale No. 14.—1 bale, cont'g 20 pieces flannel, 25 y'ds each, 500 y'ds; and 13 pieces brown Holland, 451 y'ds;	
	Bale No. 11.—1 bale, cont'g 20 pieces flannel, 25 y'ds each, 500 y'ds; and 13 pieces brown Holland, 451 y'ds,	
	In all, 2,500 y'ds flannel, at 16 cts. per y'd	400 00
	In all, 2,255 y'ds brown Holland, at 10 cts. per y'd	225 50
49	8 bundles, containing 1 tarpaulin each, each measuring 20 x 10, at $25 each	200 00
	11 bundles, containing 1 tarpaulin each, each measuring 20 x 13, at $25 each	275 00
[S. and C.]		
	Case No. 1021.—1 case, containing buttons for army uniforms and clothing, as follows:	
	20 gross black silk vest buttons, at 50 cts. per gross	10 00
	70 " " " at 50 cts. "	35 00
	120 " white linen " at 18 cts. "	21 60
	100 " black wooden " at 40 cts. "	40 00
	96 " white agate " at 25 cts. "	24 00
	140 " " " at 25 cts. "	35 00
	72 " white pearl " at 20 cts. "	14 40
	12 " " " at 60 cts. "	7 20
	39 " white bone " at $1 "	30 00
	20 " white pearl " at 30 cts. "	6 00
	12 " horn " at 20 cts. "	2 40
	5 " horn " at 30 cts. "	1 50
	66 " white linen " at 18 cts. "	11 88
	50 " black wood " at 40 cts. "	20 00
	14 " pearl " at 90 cts. "	12 60
	7 " pearl " at 90 cts. "	6 30
	5 " horn " at 50 cts. "	2 50
	21 " white and black bone vest buttons, at 75 cts. per gross	15 75
50	78 barrels, containing 100 lbs. each of cannon powder, in all, 7,800, at 18 cts. per lb	1,404 00
		238,861 37
	Deduct error on second page, 1,000 black leather gun slings, at 2 cts. each	20 00
		238,841 37

All which is respectfully submitted.

ORISON BLUNT,
Sole Appraiser.

New York, March 19th, 1862.

51 U. S. dist. court.

UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART and her cargo, taken as prize.

To the honorable Samuel R. Betts, judge of the district court within and for the southern district of New York:

The undersigned, prize commissioners of this district, would respectfully report, that in pursuance of an order made in the above-entitled cause on the 14th day of February, 1862, whereby they were authorized and directed to place all of the cargo of the above-named schooner, which consists of arms, powder, and munitions of war, in the custody of the commandant of the United States navy yard at this port, to be by him kept with the same effect as if still in their custody, and to make an inventory of all articles so delivered by them to the said commandant, and file the same in the registry of this court; that at the time of such delivery, or prior thereto, the said powder be appraised by A. G. Hazard, esq., as sole appraiser, and the arms and other munitions of war by Orison Blunt, esq., as sole appraiser, and their report filed with such inventory. They caused all of the cargo of the said schooner Stephen Hart, consisting of arms, powder, and munitions of war, to be placed in the custody of the commandant of the navy yard, as directed by the
52 said order; that the same was discharged from the said vessel and placed in the ordnance store at the navy yard, Brooklyn, by or under the direction of the aforesaid Orison Blunt, esq., and the same were duly appraised by him, as will appear by his report thereof, on file in the registry of this court.

That the undersigned did thereupon cause to be made, under their direction, a true and complete inventory of all the articles so delivered by them to the aforesaid commandant, which is hereto annexed, marked A, and filed herewith in the registry of this court.

That by the report of the appraisers, which is herewith filed in the registry of the court as aforesaid, it appears that the value of the entire property mentioned on the inventory so made as aforesaid is two hundred and thirty-eight thousand eight hundred and forty-one dollars and thirty-seven cents, ($238,841 37.)

All which is respectfully submitted.

HENRY N. ELLIOTT,
E. H. OWEN,
U. S. Prize Comm'rs.

New York, March 24, 1862.

53 "A."

287 cases long Enfield rifles, $\frac{58}{100}$ bore, triangular bayonets, with implements, each case containing 20 arms—in all, 5,740.

287 arm chests for the above.

108 cases of short Enfield rifles, $\frac{58}{100}$ bore, sabre bayonets and triangular bayonets, assorted with implements, each case containing 20 arms—in all, 2,160.

108 arm chests for the above.

33 cases of carbines, $\frac{58}{100}$ bore, Enfield pattern, rifled, with sabre bayonets, implements complete; each case containing 20 arms—in all, 660.

33 arm chests for the above.

20 bales of cartridge paper for Enfield rifles and other small arms, weighing, in all, 13,597 gross, 400 tare—13,197 lbs.

132 cases of British rifled muskets, with triangular bayonets, each case containing 20 arms, pattern of 1851, $\frac{72}{100}$ bore—in all, 2,640.

10 cases of British muskets, smooth bore, triangular bayonets, $\frac{75}{100}$ bore, each case containing 20 arms—in all, 200.

16 cases of Brunswick rifles, sabre bayonets, each case containing 20 arms—in all, 320.

16 cases for the above.

15 cases, each containing 25 cavalry sabres, iron scabbards, 375 in all.

12 sets of large screw stocks, dies, and taps, with wrench.

6 the same as the above, small.

1 case containing 5,000 cones for Enfield rifles.

10 sets of steel letters.

9 sets of figures; 9 hammers and rests.

54 11 pairs of panniers of medicine.

1 case of medical lint, 200 lbs.

170 bales of gray blankets, each bale containing 40 blankets, weighing 4¾ lbs. The blankets number, in all, 6,800.

40 bales of white blankets, each bale containing 40 blankets, each blanket weighing 5 lbs.; number of blankets, in all, 1,600.

3 bales of white blankets, each containing 50 blankets, each blanket weighing 5¼ lbs., number of blankets, in all, 150.

6 cases containing bayonet scabbards, pattern of 1851—in all, 4,250.

2 cases containing sergeant equipments, 75 in each case, 150 sets.

2 cases.

4 cases, containing Enfield rifled musket bayonet scabbards.

2 cases,	700 each	1,400
1 "	800	800
1 "	570	570
In all		2,770

4 cases.

2 cases, containing 2 each, 4 in all, of Capt. Blakely's rifle cannon, $2\frac{3}{4}$-inch bore, carries 61-p'dr shot. 2 cases.

1 case, containing 2,000 bags made of serge for Blakely's cannon cartridges. 1 case.

56 cases, each containing 16 shell, for Blakely's rifle cannon, $2\frac{3}{4}$ bore, loaded and capped, in all 1,008, covered with lead.

84 cases, containing Enfield rifle fixed ammunition cartridges.

55 Cartridges—24 cases, 2,500 in each 60,000
60 " 1,000 " " 60,000

In all 120,000

2 cases, containing 50,000 each, percussion caps, 100,000 in all. 2 cases.

8 cases of gun slings, containing as follows:

2 cases, 500 each 1,000
3 " 800 " 2,400
3 " 700 " 2,100

In all 5,500

8 cases.

27 cases, containing 80 pouches each, or cartridge boxes, 2,160 in all. 27 cases.

93 cases of knapsacks, as follows:

25 cases, containing 40 each 1,000
58 " " 45 " 2,610
1 " " 35 35
9 " " 50 450

In all 4,095

93 cases.

41 cases, containing ball bags, waist belts, body belts, and frogs.

39 cases, containing 100 each ..... 3,900 sets.
1 " " 60 ..... 60 "
1 " " 40 ..... 40 "

4,000

41 cases.

100 cases, containing 1,000 each, of the Brunswick rifle cartridges, $\frac{64}{100}$ of an inch bore.

410 cases, containing Minie rifle cartridges for $\frac{69}{100}$ of an inch calibre, each case containing 1,000.

56 5 cases, containing cartridges for smooth-bore English muskets, $\frac{75}{100}$ in bore, 1,000 in each case, round ball and two buckshot.

8 bales of gray army cloths.

{ W D H }

Bale	No. 3,	containing	145	y'ds.
"	" 12,	"	194	"
"	" 7,	"	195	"
"	" 9,	"	194	"
"	" 8,	"	194	"
"	" 13,	"	191	"
"	" 11,	"	191	"
"	" 10,	"	242	"

57 [W. D. H.] 54 bales of steel-mixed gray army cloth for uniforms, as follows:

Bale	No. 477,	4 pieces, containing	205	yds.
"	" 483,	4 " "	209½	"
"	" 449,	4 " "	208½	"
"	" 464,	4 " "	208½	"
"	" 437,	4 " "	213	"
"	" 313,	6 " "	264	"
"	" 446,	4 " "	211½	"
"	" 480,	4 " "	207½	"
"	" 467,	4 " "	206	"
"	" 462,	4 " "	206	"
"	" 443,	4 " "	210	"
"	" 451,	4 " "	209	"
"	" 482,	4 " "	211	"
"	" 472,	4 " "	207	"
"	" 441,	4 " "	211	"
"	" 455,	4 " "	209	"
"	" 478,	4 " "	207	"
"	" 460,	4 " "	206	"
"	" 471,	4 " "	208½	"
"	" 457,	4 " "	207½	"
"	" 484,	4 " "	210½	"
"	" 440,	4 " "	211	"
"	" 469,	4 " "	207½	"
"	" 479,	4 " "	206½	"
"	" 473,	4 " "	207½	"

58

"	" 450,	4 " "	209½	"
"	" 481,	4 " "	207	"
"	" 461,	4 " "	210	"
"	" 475,	4 " "	209	"
"	" 442,	4 " "	210½	"
"	" 445,	4 " "	210	"
"	" 436,	4 " "	207	"
"	" 438,	4 " "	210	"

Bale No.	439,	4	pieces,	containing	207½	yds.
" "	466,	4	"	"	208½	"
" "	485,	4	"	"	209½	"
" "	477,	4	"	"	205	"
" "	486,	5	"	"	257½	"
" "	474,	4	"	"	207	"
" "	456,	4	"	"	208	"
" "	448,	4	"	"	207	"
" "	454,	4	"	"	209	"
" "	476,	4	"	"	207½	"
" "	468,	4	"	"	203½	"
" "	459,	4	"	"	207	"
" "	453,	4	"	"	207½	"
" "	458,	4	"	"	206½	"
" "	447,	4	"	"	209½	"
" "	470,	4	"	"	244	"
" "	465,	4	"	"	209½	"
" "	487,	5	"	"	266½	"
" "	463,	4	"	"	208	"
" "	444,	4	"	"	211⅓	"
" "	452,	4	"	"	211½	"
					11,453½	yds.

59 Case No. 24.—1 case, containing 210 gross of brass buttons for infantry, artillery, and cavalry for the rebel army, marked C. S. A., weighing 315 lbs.

29½ lbs. drab sewing silk.

Case No. 1.—1 case, containing 150 gross of brass buttons, marked as the above, weighing 225 lbs.

Case No. 25.—1 case, containing 180 gross of brass buttons, marked as the above, 270 lbs.

40 gross of black buckles.

Case No. 26.—1 case, containing 85 gross of brass buttons, marked as the above, weighing 125 lbs.

20 bales, containing stockings, as follows:

19 bales, containing 50 doz. each; 1 bale, containing 36 doz.; making, in all, 986 doz., or 11,832 prs. of stockings.

3 bales, cont'g 1,200 prs. each; 3,600 prs. in all.

20 cases, cont'g brogan shoes, extra quality, 100 prs. in each case; in all, 2,000 prs.; 20 cases.

8 cases, containing russet shoes, Blucher pattern, as follows:

6 cases, 75 prs. each; 1 case, 80 prs.; 1 case, 62 prs.; making, in all, 592 prs., 8 cases.

10 cases, containing black leather shoes, Blucher pattern, as follows:

9 cases, 75 prs. each; 1 case, 87 prs.; making, in all, 762 prs.

4 cases, cont'g water-proof covers for mess tins; 3 of 550 each; 1 case of 570; making, in all, 2,220.

60 [W. D. H.] Case No. 14.—1 case, containing trimmings for army clothes and uniforms, as follows:

1,253 yds. Silesia sleeve lining; 7 gross blue square cord; 4 gross blue woollen tracing cord.

Case No. 17.—1 case, cont'g trimmings for army clothes and uniforms, as follows:

1,166 yds. Silesia sleeve linings; 13 gross black woollen square cord; 4 gross black tracing braid.

Case No. 12.—1 case, cont'g trimmings for army clothes and uniforms, as follows:

1,145 yds. black Silesia sleeve linings; 32 gross blue woollen tracing cord.

Case No. 10.—1 case cont'g trimmings for army clothes and uniforms, as follows:

1,154 yds. brown Silesia sleeve linings; 4 gross blue square woollen cord; 12 gross blue woollen tracing braid.

Case No. 11.—1 case, cont'g trimmings for army clothes and uniforms, as follows:

1,168 yds. black Silesia sleeve linings; 26 gross pantaloon lace.

Case No. 3.—1 case, cont'g trimmings for army clothes and uniforms, as follows:

1,209 yds. drab Silesia sleeve linings; 8 lbs. drab thread.

Case No. 5.—1 case, cont'g trimmings for army clothes and uniforms, as follows:

1,264 yds. drab Silesia sleeve linings; 7 gross blue square cord; 4 gross blue tracing braid.

61 Case No. 16.—1 case containing trimmings for army clothes and uniforms, as follows:

515 y'ds drab Silesia sleeve linings.
33 gross black square cord.
3 " " tracing braid.

Case No. 15.—1 case cont'g trimmings for army clothes and uniforms, as follows:

131 y'ds of buckram.
6 gross blue square trimming cord.

Case No. 9.—1 case containing trimmings for army clothes and uniforms, as follows:

1,212 y'ds brown Silesia sleeve linings.
7 gross blue square cord.
4 " " tracing braid.

Case No. 4.—1 case cont'g trimmings for army clothes and uniforms, as follows:

1,521 y'ds sleeve linings, drab Silesia.

Case No. 6.—1 case cont'g trimmings for army clothes and uniforms, as follows:

1,153 y'ds brown Silesia sleeve linings.
7 gross blue square cord.
2 " " tracing braid.

Case No. 7.—1 case cont'g trimmings for army clothes, and uniforms, as follows:

1,150 y'ds drab Silesia sleeve linings.

14 gross black square cord.

Case No. 18.—1 case cont'g trimmings for army clothes and uniforms, as follows:

34 gross black square cord.
54 gross black tracing braid.

62 Case No. 22.—1 case cont'g trimmings for army clothes and uniforms, as follows:

84 lbs. of black thread.
12 " " white thread.
72 p'rs " scissors.
2 doz. " thimbles.
84 gross " wood buttons.
57 " " horn buttons.
20 " " hooks and eyes.

No. number.—1 case cont'g trimmings for army clothes and uniforms, as follows:

25 p'rs of scissors.
5 " " shears.
77 gross " wood buttons.
10 " " " "
56 y'ds " canvas.
13 gross " hooks and eyes.
61 lbs. " black thread.

No. number.—I case cont'g trimmings for army clothes and uniforms, as follows:

13½ gross of pantaloon braid.
11 " " blue square cord.
583 y'ds " slate linen.
328 " " brown canvas.

Bale No. 19.—1 bale containing trimmings for army clothes and uniforms, as follows:

1,818 y'ds of steel mixed alpaca.

Bale No. 20.—1 bale cont'g trimmings for army clothes and uniforms, as follows:

1,821 y'ds steel mixed alpaca.

Bale No. 12.—1 bale cont'g trimmings for army clothes and uniforms, as follows:

115 y'ds black Silesia sleeve linings.
250 y'ds brown canvas.

63 { W D / H }

Bale No. 23.—1 bale cont'g 4 pieces (109 y'ds) of scarlet cloth for army uniforms.

8 bales cont'g white twilled flannel for lining for army overcoats, as follows:

Bale No.	431.—1	bale cont'g	25	pieces,	25	y'ds ea.....	625	y'ds.
" "	432.—1	" "	25	"	25	" ea.....	625	"
" "	433.—1	" "	25	"	25	" ea.....	625	"
" "	429.—1	" "	25	"	25	" ea.....	625	"
" "	436.—1	" "	25	"	25	" ea.....	625	"

Bale No.	435.—1 bale, con'g	25	pieces	25	y'ds	ea....	625	yd's.
" "	434.—1 " "	25	"	25	"	ea....	625	"
" "	430.—1 " "	25	"	25	"	ea....	625	"
								"
In all.....							5,000	"

{W D H}

5 bales cont'g white twilled flannel and brown Holland for linings for army overcoats, as follows:

Bale No. 13.—1 bale, cont'g	20	pieces	flannel, 25 y'ds ea., and
	13	"	brown Holland, 451 y'ds.
" " 15.—1 "	20	"	flannel, 25 y'ds ea., and
	13	"	brown Holland, 451 y'ds.
" " 12.—1 "	20	"	flannel, 25 y'ds ea., and
	13	"	brown Holland, 451 y'ds.
" " 14.—1 "	20	"	flannel, 25 y'ds ea., and
	13	"	brown Holland, 451 y'ds.
" " 11.—1 "	20	"	flannel, 25 y'ds ea., and
	13	"	brown Holland, 451 y'ds.

In all, 2,500 y'ds of flannel.
In all, 2,253 " brown Holland.

8 bundles cont'g 1 tarpaulin, each cont'g 20 × 10.
11 bundles cont'g 1 tarpaulin, and each measuring 20 × 13.

64 S × C. Case No. 1,021.—1 case cont'g buttons for army uniforms and clothing, as follows:

20	gross	black silk vest buttons.	
70	"	" " "	"
120	"	white linen	"
140	"	white agate	"
96	"	" "	"
72	"	" pearl	"
12	"	" "	"
39	"	" bone	"
20	"	" pearl	"
12	"	" horn	"
5	"	" "	"
66	"	" linen	"
50	"	black wood	"
14	"	pearl	"
7	"	"	"
5	"	horn	"
21	"	white and black bone buttons.	
100	"	black wooden	"

78 barrels containing 100 lbs. each of cannon powder, in all 7,800 lbs.

E. H. OWEN,
HENRY H. ELLIOTT,
U. S. Prize Comm'rs.

New York, March 24, 1862.

Endorsed: U. S. district court, in prize 17, 81. The United States, &c., *vs.* The schooner Stephen Hart and her cargo. Prize commissioners' report. Inventory and appraisement of cargo, in compliance with the order of the court of 14th Feb'y, 1862.
Filed March 25th, 1862.

65 District court of the United States, southern district of New York.

THE UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART and her cargo. } In prize.

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The petition of intervention of George W. Colvocoresses, commander, and of the officers and men in the navy of the United States, on board the United States vessel-of-war the "Supply," respectfully represents, that they were the naval captors of the captured property sent in for adjudication herein by this honorable court, and as such are equally interested therein with the libellants.

They aver that all and singular the facts set forth and contained in the libel herein are true and correct, and they join in the prayer thereof for the decree of this court of the condemnation of said captured property as lawful prize of war.

And these intervenors do further pray that, after said decree shall have been duly rendered, so much of said captured property as shall not have been taken by the government of the United States, upon appraisal thereof, may be sold, pursuant to the said decree, and that the court will then proceed to render a final decree for the division and distribution of the amount of the appraised value of
66 said captured property and the proceeds of such sale, deducting therefrom the costs of these proceedings upon the report of the prize commissioners, and pursuant to the provisions of the statutes of the United States.

F. N. UPTON,
Proctor and Advocate for Naval Captors.

April, 1862.

Endorsed: 17, 81. Dist. court of the United States. In prize. The United States *vs.* The schooner Stephen Hart and her cargo. Intervention of naval captors. F. N. Upton, proctor. Filed April 5, 1862.

67 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the sixteenth day of April, in the year of our Lord one thousand eight hundred and sixty three.

Present: the honorable Samuel R. Betts, district judge.

THE UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART, &c., and cargo. } In prize. 17, 81.

April 16, 1862. The following addition to the order of the 3d March, 1862, is directed by the court, on the motion of the district attorney, Mr. Kursheedt, proctor for the claimant, appearing:

"And that the same proceedings having been had, the said prize commissioners may deliver to said Flag Officer Paulding, for the use of the navy, any other articles in said cargo not already taken by and for the use of the War Department."

SAM'L R. BETTS.

68 Filed the 16th day of April, 1862.

69 District court of the United States, southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, apparel, and furniture, and her cargo. } In prize.

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The claim of John Meyer Harris, of Liverpool, Lancaster, in the kingdom of Great Britain, sole owner of the British schooner Stephen Hart, her tackle, apparel, and furniture, proceeded against by the United States as prize, intervening by Charles Nathaniel Dyett, master of said schooner, alleges as follows:

That he is the true and bona fide owner of said vessel, the Stephen Hart, her tackle, apparel, and furniture, and that no other person is the owner thereof. And thereupon the said claimant prays that this honorable court will be pleased to decree a restitution of the same to him, and otherwise right and justice to administer in the premises.

J. M. HARRIS, *Owner*,
Per CHAS. N. DYETT, *Master*.

Sworn to before me this 1st day of May, 1862.
GEO. W. MORTON,
U. S. Com'r.
ALEX. KURSHEEDT,
Proctor for Claimant.

70 District court of the United States, southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, apparel, and furniture, &c. } In prize.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Charles Nathaniel Dyett, master of the schooner Stephen Hart, and in command thereof until her seizure, as hereinafter stated, being duly sworn, says that he is a subject of the British crown, and has always been such subject; that the said schooner was under his command at the time of her seizure by the United States storeship "Supply;" that said schooner was and is the property of John Myer Harris, of Liverpool, Lancaster, England, and that the official copy and certificate of the register of said schooner where she is registered is annexed, marked A; that said vessel, if discharged from arrest, will be the true and bona fide property of the said John Myer Harris, and no other person, and that no other person will be entitled to the delivery thereof, or the possession of the same; that said Harris is now, and for some time past has been, at Sherboro', on the western coast of Africa; that deponent heard from said Harris his intent to go to said Sherboro', and has heard since that he went; that it is impossible to communicate with said Harris in time to allow him to make the claim and test affidavit herein; that said Harris is
71 also a subject of the English crown, and has always been such; that said schooner Stephen Hart, having her cargo laden, sailed from the port of London and Erith, on or about the 19th day of November, 1861, on a voyage to Cardenas, in the island of Cuba, and proceeded on the usual track pursued by navigators across the Atlantic for that port, around, by and between the western West India Islands, Antigua, and Montserrat, to the south of Cuba, aforesaid, and around the westernmost point of said island, and was bearing directly down to Cardenas, her destined port, when she was seized by the said United States storeship "Supply," under the circumstances hereinafter detailed; that this deponent duly proceeded with said vessel in the usual and ordinary course of such voyage for the port of Cardenas aforesaid, and had duly proceeded for and towards said port until about the 29th day of January, 1862, when said vessel, being within about eighty-two miles of Cardenas aforesaid, and steering therefor as near as the wind would permit, a ship, afterwards ascertained to be the storeship Supply, a war vessel of the United States government, hove in sight at about five o'clock in the morning, about six miles to leeward; that at 6½ o'clock a. m. this deponent hoisted the British ensign; at 8 o'clock, not being answered by the ship, hauled down the ensign; that the course of the said schooner was at that time laid as near as could be for her destined port, Cardenas; that the said schooner was kept and continued on her course, and no change was made, the course being one to
72 bring her nearer to said storeship Supply, and no attempt or

effort was made to avoid said vessel, the "Supply;" that at about 1 o'clock p. m., the Supply having got within about a mile of said schooner, a gun was fired at the said schooner by the said storeship Supply, upon which the said schooner's flag, the British ensign, was hoisted, notwithstanding which another gun was fired; that the said schooner Stephen Hart commenced shortening sail, and another gun was fired, whereupon the course of the said schooner was altered for the said storeship Supply, being compelled by such discharges from said vessel; that a prize-master and boat's crew boarded the said schooner Stephen Hart, and deponent duly exhibited his papers, showing the national character of his vessel, and her true and only destination; and said vessel was then, until so changed from her course, on her true and proper route to her port of destination, notwithstanding which the said master of the said storeship Supply did seize the said schooner Stephen Hart and cargo as prize of war, and send her with a prize crew to the port of New York, where she now is; that said vessel and cargo are, and always have been, during said voyage, the property of British subjects; that said vessel was bound and had steadily navigated for the port of Cardenas aforesaid, and said cargo was destined for that port; and that, in consequence of the act of the said commander of the storeship Supply and his officers, said voyage has been broken up.

Deponent further says, that said vessel and cargo was the sole
73 property of British subjects, engaged in a voyage from neutral port to neutral port, and neither violating nor intending to violate any of the laws of nations, or to communicate with, assist, or befriend the enemies of the United States government, and consigned to order of the shippers, Messrs. S. Isaac, Campbell & Co., deponent having by mistaken construction of his letters of instruction, when captured, supposed the cargo consigned to Charles J. Helme, to whom the schooner was consigned.

Deponent further says, that the officers and crew of the said capturing vessel, the Supply, were guilty of gross misconduct towards this deponent and his crew, and said schooner, the Stephen Hart, in this, to wit: that immediately after the said seizure of said schooner, the commander of the "Supply" compelled this deponent, Benjamin H. Chadwick, first mate of the said schooner, and three of the crew thereof, to come on board of the Supply, and there to remain until their arrival at the port of New York, thereby depriving deponent of all opportunity to protect and save his stores and provisions and other property, whereby the same was lost to this deponent, and said vessel, in the manner hereinafter stated.

That said captors were also guilty of great misconduct in placing on board of said schooner a crew incompetent, as this deponent verily believes, to navigate the same, whereby, for the space of three or four days, on the passage to the port of New York, the said schooner was carelessly and negligently allowed to stray from her course, and was, during that time, lost sight of by the "Supply."

74 That said captors were also guilty of great misconduct while

bringing said vessel into the harbor of New York, in that they hoisted the British flag on board of said schooner, the Stephen Hart, at her mast-head, and the American flag at her peak, and continued the same in that position until said schooner arrived at the navy yard, Brooklyn, thereby offering insult to the flag under which said schooner sailed, contrary to the recognized usages of navigators; said vessel being a British vessel, and entitled to have its flag respected and in the proper position.

That said captors were also guilty of great misconduct in breaking open, destroying, removing, or appropriating to themselves the stores, provisions, and liquors on board of said schooner Stephen Hart.

That said captors were also guilty of great misconduct in purloining, or allowing to be purloined or lost, the clothing and wearing apparel of this deponent, to wit: coats, pants, shirts, vests, and other ordinary and useful articles of wearing apparel, the private and individual property of this deponent; and also certain other property of this deponent, to wit: one spy-glass, several books, charts, and other property; all of which property belongs solely to this deponent, and is of great value, to wit: about one hundred and fifty dollars; and certain property belonging to the vessel, to wit: one chronometer, barometer, compasses, &c., of the value of about two hundred and fifty dollars.

And this deponent further says, that the said captors were
75 also guilty of great misconduct, in that they burnt and destroyed the two yards on board of said schooner, part of the apparel thereof.

And this deponent further says, that a portion of the papers found by the captors on board of said schooner, Stephen Hart, have been improperly separated from the rest of the papers found on board thereof, and have been handed over to Benjamin H. Chadwick, contrary to law, as this deponent is advised and believes.

CHAS. N. DYETT, *Master.*

Sworn to before me this 1st day of May, 1862.

GEO. W. MORTON,
U. S. Comm'r.

ALEX. KURSHEEDT,
Proctor and Adv.

76 (A.)

Form 19.—*Copy register.*

Official number of ship—44,134.
Name of ship—Stephen Hart.
Port number—249.
Port of registry—Liverpool.
British or foreign built—Foreign; foreign name was "Tamaulipas."
Whether a sailing or steamship; if steam, how propelled?—Sailing.
Where built—At Greenport, State of New York, in the United States, America.
When built—In the year 1859.

No., date, and port of previous registry (if any.)

Number of decks—one and break.	Build—carvel.
Number of masts—two.	Gallery—none.
Rigged—schooner.	Head—scroll.
Stern—square.	Framework—wood.

Tonnage:

	No. of tons.
Tonnage under tonnage deck	142.55
Closed-in spaces above the tonnage deck, if any, viz: space or spaces between decks	.. ..
Break	77.30
Round house	.. ..
Other enclosed spaces, (if any,) naming them	.. ..
Deduct allowance for propelling power	.. ..
Register tonnage	219.85

Measurements:

	Feet.	Tenths.
Length from the fore part of the stem under the bowsprit to the aft side of the head of the stern-post	107	6
Main breadth to outside plank	28	3
Depth in hold from tonnage deck to ceiling at midships	7	6

77 Names, residence, and description of the owners, and number of sixty-fourth shares held by each owner:

John Myer Harris, of Liverpool, in the county of Lancaster, merchant, $\frac{64}{64}$.

Registry dated 15 Oct., 1861.

I hereby certify the foregoing to be a true copy of the register of the British ship "Stephen Hart," which appears in the book of registry of British ships at the port of Liverpool, and which book is under my charge.

Dated 4 March, 1862.

Registrar W. G. STEWART, *Ass't Coll'r.*

{ Customs. Mar. 4, 1862. Liverpool. }

N. B. To be addressed, in an envelope, to the chief registrar of shipping custom-house, London.

Endorsed: Copy of registrar.

STEPHEN HART.

78 Endorsed:

17—81.—In prize.

The United States *vs.* The schooner Stephen Hart, her tackle, apparel, and furniture, &c. Claim and test-oath of John Myer Harris.

ALEX. KURSHEEDT,
Proctor Cl'm't.

Filed May 1st, 1862.

79 District court of the United States, for the southern district of New York.

THE UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART, &c., and her cargo.

Kingdom of Great Britain, city of London.

To the honorable Samuel R. Betts, judge of the district court of the United States, for the southern district of New York:

The claim of Samuel Isaac, on behalf of himself and Saul Isaac, his copartner, subjects of the crown of Great Britain, merchants and copartners, trading and doing business in the city of Westminster, England, under the firm name and style of S. Isaac, Campbell & Co., said firm having been long established under such name, to the whole of the cargo of the schooner Stephen Hart, now in the custody of the marshal of said district, and to the libel of the United States against said schooner and her cargo, shows:

That they, the said claimants, were, at the time of the seizure of the said ship and cargo, and now are, the true and bona fide owners of the said cargo, and that no other person was or is the owner.

Wherefore they, the said claimants, pray that the said cargo
80 may be delivered up to them as the lawful, sole, and entire property of subjects of the crown of Great Britain, with damages for the detention thereof and injury thereto, and that the said libel may be dismissed.

SAMUEL ISAAC.

Sworn to at the Mansion House, in the city of London, before me, this twelfth day of April, 1862.

WILLIAM CUBITT, *Mayor.*
ALEX. KURSHEEDT,
Proctor and Adv.

CONSULATE OF THE UNITED STATES OF AMERICA, AT LONDON.

I, Freeman H. Morse, consul of the United States of America for London, and the dependencies thereof, do hereby make known and certify to all whom it may concern, that the right honorable William Cubitt, before whom the annexed affidavit was made, as appears by his signature thereto, is lord mayor and chief magistrate of the city

of London aforesaid; and that to all his acts by him so done full faith and credit are and ought to be given, in judicature and thereout.

In testimony whereof I have hereunto set my hand and affixed the seal of the consulate of the United States at London aforesaid, this 12th day of April, in the year of our Lord one thousand eight hundred and sixty-three, and in the eighty-sixth year of the independence of the said United States.

[SEAL.] F. H. MORSE.

81 District court of the United States, southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c., and her cargo.

Kingdom of Great Britain, city of London.

Samuel Isaac, of No. 71 Jermyn street, in the city of Westminster, England, merchant, being duly sworn, says, that he and Saul Isaac are copartners, trading and doing business at No. 71 Jermyn street, aforesaid, under the firm name and style of S. Isaac, Campbell & Co., and that they are respectively residents of England and subjects to the Queen thereof.

That on or about the second day of December, one thousand eight hundred and sixty-one, and for some days previously, the deponent and his said copartner, partly at the port of London and partly at the port of Erith, both in England, shipped on board the schooner Stephen Hart, a vessel then and now belonging to John Myer Harris, of Liverpool, in the county of Lancaster, England, and Sherboro', on the western coast of Africa, and bound for Cardenas, in the island of Cuba, a cargo of goods mentioned in the claim hereunto annexed, the growth, produce, or manufacture of Great Britain, and con-

82 sisting of arms, ammunition, and military clothing.

That the said cargo, at the time it was so shipped, at the time of the seizure of the said vessel, and at the present time, was and is the lawful property of this deponent and of his copartner, and of no other person whomsoever. That said cargo having been placed on board of the said schooner Stephen Hart, the crew of the said vessel was first shipped, and she duly cleared for the port of Cardenas, aforesaid, for which port said cargo was destined. That said vessel, which then was, and now is, a British vessel, sailed under the British flag.

That it was not intended that the said schooner should enter or attempt to enter any port of the United States, or that the cargo should be delivered at any port in the United States; that the true and only destination was Cardenas, where the same was to be delivered, and the vessel was thence to sail to Africa, if she obtained a suitable cargo for that country.

That such cargo, if discharged from arrest, will be the true and bona fide property of this deponent and his said copartner, and no other

person, and that no other person will be entitled to the delivery thereof, or the possession of the same.

SAMUEL ISAAC.

Sworn to at the Mansion House, in the city of London, this 12th day of April, 1862, before me.

WILLIAM CUBITT, *Mayor.*
ALEX. KURSHEEDT,
Proctor and Adv.

83 CONSULATE OF THE UNITED STATES OF AMERICA, AT LONDON.

I, Freeman H. Morse, consul of the United States of America for London and the dependencies thereof, do hereby make known and certify to all whom it may concern, that the right honorable William Cubitt, before whom the annexed affidavit was made, as appears by his signature thereto, is lord mayor and chief magistrate of the city of London, aforesaid, and that to all acts by him so done full faith and credit are and ought to be given, in judicature and thereout.

In testimony whereof I have hereunto set my hand and affixed the seal of the consulate of the United States, at London, aforesaid, this 12th day of April, in the year of our Lord one thousand eight hundred and sixty-two, and in the eighty-sixth year of the independence of the said United States.

F. H. MORSE.

{ American consulate seal, London. }

Endorsed: 17, 81. U. S. district court, S. D. of New York. In prize. The United States *vs.* The schooner Stephen Hart, &c., and her cargo. Claim and test-oath of S. Isaac, Campbell & Co.

ALEX. KURSHEEDT,
Proctor Cl'm'ts.

Filed May 1st, 1862.

84 District court of the United States, for the southern district of New York.

Filed the first day of May, 1862.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the eighteenth day of February, in the year of our Lord one thousand eight hundred and sixty-two, by E. Delafield Smith, U. S. dist. att'y, on behalf of the United States, against the schooner Stephen Hart, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying that said vessel, &c., and cargo may be condemned as lawful prize to the use of the United States; and the parties hereto hereby consenting that, in case of default or contumacy on the part of the

claimant or his surety, execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands: And whereas, also, a claim has been filed in said cause by John Meyer Harris, as owner of the above sch'r, her tackle, &c.:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimant above named shall pay all costs and expenses which shall be awarded against him by the final decree of this court, or upon an appeal, by the appellate court.

J. M. HARRIS, *Owner*,
Per CHAS. N. DYETT, *Master*.
C. DONOHUE.

Taken and acknowledged, this first day of May, 1862, before me.
GEO. W. MORTON,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss*:

Charles Donohue, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the city of New York; that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

C. DONOHUE.

Sworn to this first day of May, 1862, before me.
GEO. W. MORTON,
U. S. Commissioner.

Recorded the first day of May, 1862.
GEO. F. BETTS, *Clerk.*

85 District court of the United States, for the southern district of New York.

Filed the first day of May, 1862.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the eighteenth day of February, in the year of our Lord one thousand eight hundred and sixty-two, by E. Delafield Smith, U. S. dist. att'y, on behalf of the United States, against the schooner Stephen Hart, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying that said vessel, &c., and cargo, may be condemned as lawful prize to the use of the United States; and the parties hereto hereby consenting that, in case of default or contumacy on the part of the claimant or his surety, execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands: And whereas, also, a claim has been filed in said cause by Sam'l Isaac, Campbell & Co.:

Now therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against him by the final decree of this court, or upon an appeal, by the appellate court.

S. & S. ISAAC, CAMPBELL & CO.,
Per CHAS. N. DYETT, *Master.*
C. DONOHUE.

Taken and acknowledged this first day of May, 1862, before me,
GEO. W. MORTON,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Charles Donohue, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the city of New York, &c.; that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities. C. DONOHUE.

Sworn to this first day of May, 1862, before me.
GEO. W. MORTON,
U. S. Commissioner.

Recorded the first day of May, 1862.
G. F. BETTS, *Clerk.*

86 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Thursday, the first day of May, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c., and cargo. } In prize—17, 81.

On motion of the U. S. district attorney, ordered by the court that the papers in preparation in this cause be opened.

87 Filed the first day of May, 1863.

88 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms in the city of New York, on Wednesday, the seventh day of May, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo. } In prize—17, 81.

On reading and filing the report of the prize commissioners of this district, with the affidavit and schedule thereto annexed, and after

hearing advocates for the respective parties, it is ordered, on motion of the U. S. district attorney, that the vessel and all of the cargo herein still remaining in the custody of the court be sold by the U. S. marshal under the superintendence and direction of the prize commissioners. The marshal shall receive the purchase-moneys, make a proper and full return of the sales, specifying therein in detail the amount received for each article sold, and pay the gross proceeds into the registry of the court. All charges and claims against said proceeds shall be presented to and allowed by the court before payment thereof.

In case the marshal and prize commissioners shall deem it necessary to remove the cargo from the navy yard where it is now stored, prior to the interlocutory sale hereby ordered, it shall be taken to such storehouse as the marshal shall select, and at the time of such removal lists thereof shall be taken by both the marshal and the prize commissioners, which lists shall be severally filed in
89 court before the said sale.

SAM'L R. BETTS.

Filed the seventh day of May, 1862.

90 U. S. district court.

THE UNITED STATES, &c.;
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo.

SIR: Please take notice that I shall present the accompanying report of the prize commissioners for this district, with the affidavit and schedule thereto annexed, to the Hon. Judge Betts, at the U. S. district court-room in this city, on Wednesday, the 7th day of May, instant, and that I shall apply thereon for an interlocutory order of sale of the balance of the cargo and of the vessel by the U. S. marshal pursuant to the provisions of the act of March 25th, 1862, and under such restrictions as shall to the court seem proper and just.

Yours, &c.,

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Dated New York, May 6, 1862.
To ALEXANDER KURSHEEDT, Esq.,
Proctor for Cl'm'ts.

91 United States district court.

THE UNITED STATES, &c.,
vs.
THE SCH'R STEPHEN HART and her cargo, taken as prize.

To the honorable Samuel R. Betts, judge of the district court of the United States within and for the southern district of New York:

The undersigned, prize commissioners of said district, respectfully report to this court, that in pursuance of an act of Congress entitled

"An act to facilitate judicial proceedings in adjudications upon captured property and for the better administration of the law of prize," passed March 25th, 1862, they have examined into the situation and condition of the aforesaid vessel and cargo in order to ascertain if the same is "perishing or perishable and deteriorating in value." That it appears from the ship's papers found on board at the time of capture, and from the depositions taken "*in preparatorio*," all of which are on file in the office of the clerk of this court, the cargo consists of arms and munitions of war. That such cargo was put on board in London in the month of November. That the vessel and cargo were afterwards captured off the coast of Florida on the 29th day of January, and brought into this district, where the same arrived on or about the 13th day of Feb'y, 1862. That soon after her arrival, by an order of this court, under date of the 14th day of Feb'y last, the cargo was appraised by Orison Blunt, esq., having
92 been discharged under the supervision of the prize commissioners and placed in the custody of H. Paulding, commanding the navy yard in New York, leaving the legal custody in the prize commissioners.

That under a second order of the court, of the 3d day of March last, the prize commissioners delivered to the Navy Department a portion of the said cargo. That under a third order of this court, under date of the 4th day of March last, another portion of the cargo was delivered to the War Department. That the entire amount of the cargo, as appaised by Orison Blunt, esq., above named, was $238,841 37.

That there has been delivered to the Navy Department, under the above order, the amount of.....	$169,467 50
To the War Department, under the above order, the sum of.....	14,092 11
	183,559 61

That there remains in the custody of the court a portion of the cargo, of which an inventory is hereto annexed, amounting in value to $55,281 76.

That on or about the 18th day of Feb'y, 1862, the above-named vessel was taken by the marshal, under process issued out of this court, into his custody, where it now remains, under his control, and is now lying at Gowanus creek. That from the nature of the cargo, in this case, being entirely munitions of war, or articles adapted mostly to war purposes, a portion of which being woollen goods, and
93 liable to entire destruction from moths during the approaching season; there are urgent and special reasons, obvious to the court, why the remainder of the cargo in question should be promptly sold under an interlocutory order of the court.

That the cargo in question is now at the navy yard, occupying public room required for public purposes; that the vessel in question is subject to charges and expenses for wharfage, keeper's fees, &c.; that she is liable to leak and damage by the elements.

That, so far as is known to the prize commissioners, there is no insurance on either the cargo or the vessel, which, in case of loss, will inure to the benefit of the captors. Under all the circumstances of this case, the commissioners are of the opinion that the property, if not now perishing, is deteriorating in value, and that it is for the best interest of the parties concerned to have the same sold under an interlocutory order of this court, and the proceeds brought into court, as provided by the act above referred to.

All of which is respectfully submitted.

E. H. OWEN.
HENRY H. ELLIOTT.

New York, May 3, 1862.

94 District court of the United States.

THE UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART and her cargo.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Orison Blunt, being duly sworn, says that he was appointed by the court appraiser of the cargo of the vessel captured as prize in the above-entitled action, and has performed the duties of said appointment by a careful and thorough examination of every article composing the said cargo.

The said cargo consisted entirely of arms, munitions of war, army equipments, clothing, &c., and about three-fourths in value of the said cargo has been delivered to the respective officers in the Departments of War and of the Navy of the United States, authorized to receive the same, upon the requisitions of the said departments, and pursuant to the orders of the court herein.

The portion of the said cargo which remains, and is not required by the government, is of the like general character as that which has been delivered, namely, arms, army equipments, army blankets, cloths, &c., and every part and portion of the same is undergoing deterioration in intrinsic value day by day, while in its present condition, from the action of the elements and the insect destroyers of woollen materials in this climate and season. But, from another cause,

95 the value of said captured property is rapidly diminishing, and that is, from the daily decreasing demand for the same, resulting from the approaching termination of the war. From this cause, owing to the peculiar character of the said cargo, deponent has no doubt that it would sell for a much less sum the present week than it would have brought the last, and that the next week it would not yield so much as it would the present. And were the war actually terminated, or virtually at an end, deponent does not hesitate to say that the portion of cargo in this case, which has not been delivered to nor required by the government, (the appraised value of which portion is about $55,000,) in the opinion of deponent, could

not be sold for the amount of the appraisal, and probably not for any considerable portion of the present value.

Therefore, and for the above reasons, deponent is convinced that a regard for the true interests of the parties, whomsoever they may be, eventually entitled to receive said captured property, or its proceeds, requires an immediate sale of the same.

ORISON BLUNT.

Sworn to before me this 1st day of May, A. D. 1862.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

96 *Inventory of the cargo of the schooner "Stephen Hart," remaining under jurisdiction of the court, after delivering to Navy and War Departments certain portions thereof—to the Navy Department under the order of the court of the 14th of Feb'y, and to the War Department under the orders of the court of the 3d and 4th of March.*

132 cases of British rifled muskets, with triangular bayonets, each case containing 20 arms, pattern of 1851, $\frac{72}{100}$ bore, in all, 2,640, at $7	$18,480 00
10 cases British muskets, smooth bore, triangular bayonets, $\frac{75}{100}$ bore, each case containing 20 arms, in all, 200, at $4	800 00
16 cases of Brunswick rifles, sabre bayonets, each case containing 20 arms, in all, 320, at $10	3,200 00
16 cases for the above	24 00
15 cases, each containing 25 cavalry sabres, iron scabbards, 375 in all, at $1 50	562 50
170 bales of gray blankets, each bale containing 40 blankets, weighing 4½ lbs., the blankets, in all, 6,800, at $1 per blanket	6,800 00
6 cases, containing bayonet scabbards, pattern of 1851, in all, 4,250, at 20 cts. each	850 00
2 cases, containing 2 each, 4 in all, of Capt. Blakely's rifle cannon, 2¾-in. bore, 6-pdr. shot, each $50	200 00
2 cases, at 50 cts	1 00
1 case, containing 2,000 bags, made of serge, for Blakely's cannon cartridges, at 6 cts. each	120 00
1 case	50
97 56 cases, each containing 18 shell for Blakely's rifle cannon, 2¾ bore, loaded and capped, in all, 1,008, covered with lead, at 25 cts. each	252 00
100 cases, containing one thousand each of Brunswick cartridges, $\frac{64}{100}$ of an inch bore, at $13 per M	1,300 00
5 cases, containing cartridges for smooth-bore English muskets, $\frac{75}{100}$ bore, 1,000 in each case, round ball and two buckshot, at $13 M	65 00
[W. D. H. mark.] 8 bales of gray army cloth, marked as in the margin, as follows:	

Bale No. 3 containing 145 yards.
" " 12 " 194 "
" " 7 " 195 "
" " 9 " 194 "
" " 8 " 194 "
" " 13 " 191 "
" " 11 " 191 "
" " 10 " 242 "

In all.....1,546 yds., at $1 25 per yd..... $1,932 50

[W. D. H.] 54 bales of steel-mixed gray army cloth for uniforms, as follows:

Bale No. 477, containing 205 yds.
" " 483, " 209½ "
" " 449, " 208½ "
" " 464, " 208½ "
" " 437, " 213 "
" " 313, " 264 "
" " 446, " 211½ "
" " 480, " 207½ "
" " 467, " 206 "
" " 462, " 206 "
" " 443, " 210 "
" " 451, " 209 "

98

" " 482, " 211 "
" " 472, " 207 "
" " 441, " 211 "
" " 455, " 209 "
" " 478, " 207 "
" " 460, " 206 "
" " 471, " 208½ "
" " 457, " 207½ "
" " 484, " 210½ "
" " 440, " 211 "
" " 469, " 207½ "
" " 479, " 206½ "
" " 473, " 207½ "
" " 450, " 209½ "
" " 481, " 207 "
" " 461, " 210 "
" " 475, " 209 "
" " 442, " 210½ "
" " 445, " 207½ "
" " 436, " 210 "
" " 438, " 207½ "
" " 439, " 208½ "
" " 466, " 209½ "

Bale No.	485,	containing	205 yds.
" "	477,	"	257 "
" "	486,	"	207 "
" "	474,	"	208 "
" "	456,	"	207 "
" "	448,	"	209 "
" "	454,	"	207½ "
" "	476,	"	203½ "
" "	468,	"	207 "
" "	459,	"	207½ "
99			
" "	453,	"	206½ "
" "	458,	"	209½ "
" "	447,	"	244 "
" "	470,	"	209½ "
" "	465,	"	266½ "
" "	487,	"	208 "
" "	463,	"	211½ "
" "	444,	"	211½ "
" "	452,	"	210 "

11,453 y'ds, at $1 25 per y'd.	$14,316 87
Bale No. 487 and 486, containing each 5 pieces, the rest 4.	
Case No. 24, cont'g 210 gross brass buttons, for infantry, artillery, and cavalry, for the rebel army, marked C. S. A., weighing 315 lbs., at 8 cts	25 20
29½ lbs. drab sewing silk, at $5 per lb	147 50
Case No. 25, cont'g 180 gross of brass buttons, marked as above, weighing 270 lbs., at 8 cts. per lb	21 60
40 gross of black buckles, at $1	40 00
Case No. 1, cont'g 150 gross of brass buttons, marked as the above, and weighing 225 lbs., at 8 cts. per lb.	18 00
Case No. 26, cont'g 85 gross of brass buttons, marked as the above, and weighing 125 lbs., at 8 cts. per lb.	10 00
20 bales, cont'g stockings, as follows:	
19 bales, cont'g 50 doz. each, 950 doz.; 1 bale, cont'g 36 doz. each, 36; in all, 986 doz., or 11,832 prs., at 20 cts.	2,366 40
100 3 bales, containing 1,200 pairs each, 3,600 pairs, at 20 cts. per	720 00
4 cases, containing water-proof covers for mess tins, 3 of 550 each; 1 case, containing 570 each—in all, 2,220, at 3 cts. each	66 60
[W. D. H.] Case No. 14.—7 gross blue square cord, at $5 per gross	35 00
4 gross blue woollen tracing cord, at $3	12 00
Case No. 17.—13 gross black woollen square cord, at $5 per gross	65 00

	4 gross of tracing braid, at $3	$12 00
Case No. 12.	—32 gross of blue woollen tracing cord, at $3 per gross	96 00
Case No. 10.	—4 gross blue square woollen cord, $5 per gross	20 00
	12 gross woollen tracing braid, $3 per gross	36 00
Case No. 11.	—26 gross pantaloon lace, at $1 25 per gross	32 50
Case No. 3.	—80 lbs. drab thread, at 75 cts. per lb	60 00
Case No. 5.	—7 gross blue square cord, at $5 per gross	35 00
	4 gross tracing braid, at $3 per gross	12 00
Case No. 16.	—33 gross black square cord, at $5 per gross	165 00
	3 gross tracing braid, at $3 per gross	9 00
Case No. 15.	—131 y'ds of buckram, at 5 cts. per y'd	6 55
	6 gross blue square trimming cord, at $5 per gross	30 60
Case No. 9,	cont'g 7 gross blue square cord, at $5 per gross	35 00
	4 gross tracing braid, at $3 per gross	12 00
Case No. 6,	cont'g 7 gross blue square cord, at $5 per gross	35 00
	2 gross tracing braid, at $3 per gross	6 00
Case No. 7.	—14 gross black square cord, at $5 per gross	70 00
Case No. 18.	—34 gross black square cord, at $5	170 00
	54 gross tracing braid, at $3	162 00
Case No. 22,	cont'g 84 lbs. black thread, at 65 cts. per lb	54 60
	12 lbs. white thread, at 65 cts. per lb	7 80
	72 pairs scissors, at 12½ cts. per pair	9 00
	2 doz. thimbles, at 12 cts. per doz.	24
	84 gross wood buttons, at 30 cts. per gross	25 20
	57 gross horn buttons, at 30 cts. per gross	17 10
	20 gross hooks and eyes, at $1	20 00
101	One case, without number, cont'g, as follows:	
	25 pairs scissors, at 12½ cts. per pair	3 12
	5 pairs shears, at 50 cts	2 50
	77 gross wood buttons, at 30 cts	23 10
	10 gross wood buttons, at 30 cts	3 00
	56 y'ds canvas, at 5 cts. per y'd	2 80
	13 gross hooks and eyes, at $1 per gross	13 00
	61 lbs. black thread, at 50 cts	30 50
	1 case, without number, cont'g, as follows:	
	13½ gross of pantaloon braid, at $1 25 per gross	16 87
	11 gross of blue square cord, at $5 per gross	55 00
Bale No. 19,	cont'g trimmings for army clothes and uniforms, as follows:	
	1,818 y'ds steel-mixed alpaca, 10 cts. per y'd	18 180
Bale No. 20,	containing trimmings for army clothes and uniforms, as follows:	
	1,821 y'ds steel-mixed alpaca, at 18 cts. per y'd	327 78

[W. D. H.] Bale No. 23, marked as in margin, cont'g 4 pieces (109 y'ds) of scarlet cloth, for army uniforms, at 2 50 per y'd		$272 50
8 bundles, each cont'g 1 tarpaulin, measuring 20 by 13, at $25 each		200 00
11 bundles, cont'g 1 tarpaulin, measuring 20 by 13, at $25 each		275 00
S. + C. Case No. 1021, marked as in margin, cont'g buttons for army uniforms and clothing, as follows:		
20 gross black silk vest buttons, at 50 cts. per gross		10 00
70 gross black silk vest buttons, at 50 cts. per gross		35 00
120 gross white linen vest buttons, at 18 cts. per gross		21 60
100 gross black wooden buttons, at 40 cts. per gross		40 00
96 gross white agate buttons, at 25 cts. per gross		24 00
140 gross white agate buttons, at 25 cts. per gross		35 00
72 gross pearl buttons, at 20 cts. per gross		14 00
12 gross pearl buttons, at 60 cts. per gross		7 20
39 gross bone buttons, at $1 per gross		39 00
20 gross pearl buttons, at 30 cts. per gross		6 00
102 12 gross horn buttons, at 20 cts. per gross		2 40
5 gross horn buttons, at 30 cts. per gross		1 50
66 gross linen buttons, at 18 cts. per gross		11 88
50 gross black wooden buttons, at 40 per gross		20 00
14 gross pearl buttons, at 90 cts. per gross		12 60
7 gross pearl buttons, at 90 cts. per gross		6 30
5 gross horn buttons, at 50 cts. per gross		2 50
21 gross white and black bone buttons, at 75 cts. per gross		15 75
		55,281 76

HENRY H. ELLIOTT,
U. S. Prize Com'r.

New York, May 3, 1862.

Endorsed: 17, 81. In prize. United States district court. The United States *vs.* The "Stephen Hart" and cargo. Prize com'rs' report.

Due service of a copy of within report, affidavit, schedule, and notice is hereby admitted.

May 7, 1862.

ALEX. KURSHEEDT,
Att'y for Cl'm'ts.

Filed May 7, 1862.

103 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the seventh day of May, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and cargo. } In prize—17, 81.

On reading and filing the report of the prize commissioners of this district, with the affidavit and schedule thereto annexed, and after hearing advocates for the respective parties, it is ordered, on motion of the U. S. district attorney, that the vessel and all of the cargo herein still remaining in the custody of the court be sold by the U. S. marshal, under the superintendence and direction of the prize commissioners. The marshal shall receive the purchase moneys, make a proper and full return of the sales, specifying therein, in detail, the amount received for each article sold, and pay the gross proceeds into the registry of the court; all charges and claims against said proceeds shall be presented to and allowed by the court before payment thereof.

In case the marshal and prize commissioners shall deem it necessary to remove the cargo from the navy yard, where it is now stored, prior to the interlocutory sale hereby ordered, it shall be taken to such storehouse as the marshal shall select; and at the time of such removal, lists thereof shall be taken by both the marshal and prize commissioners, which lists shall be severally filed in court before the said sale.

(Signed) SAM'L R. BETTS.

104 A true copy.

(Signed) GEO. F. BETTS, *Clerk.*

Service of a certified copy of within order is hereby admitted.

HENRY H. ELLIOTT,
U. S. Prize Commissioner.
ROB'T MURRAY,
U. S. Marshal.
A. KURSHEEDT,
Proctor for Claim't.

May 7, '62.

Filed the tenth day of May, 1862.

105 District court of the United States, southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," &c., taken as a prize. }

To the honorable Samuel R. Betts, judge of the district court of the United States within and for the southern district of New York:

The undersigned, prize commissioners for the said district, respectfully report to this court:

That in pursuance of an order made herein on the 7th day of May, 1862, they have examined into the value of the above-named schooner "Stephen Hart," and have caused the same to be appraised by experts, whose affidavits are hereto annexed, and they accordingly report that they have appraised the said schooner, including her tackle, apparel, sails, &c., at the sum of four thousand one hundred dollars.

All of which is respectfully submitted.

New York, May 27th, 1862.

E. H. OWEN,
HENRY H. ELLIOTT.

106 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART" and her cargo.

Please to take notice that we shall attend at the Gowanus-bay, in the city of Brooklyn, on the 26th day of May instant, at 2 o'clock in the afternoon, and shall then and there proceed to appraise the above-named vessel, and shall continue the same, from day to day, until the same is completed.

Dated New York, May 23, 1862.

Yours, &c.,
E. H. OWEN,
HENRY H. ELLIOTT,
U. S. Prize Comm'rs.

To A. KURSHEEDT, Esq.,
Cl'ts' Proc'r.

Endorsed: U. S. district court. The United States *vs.* The schooner "Stephen Hart," &c., and cargo. Notice of appraisement. Due service of a copy of within notice admitted.

New York, May 23, 1862.

ALEX. KURSHEEDT,
Proctor for Claimants.

107 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," &c.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

James Smith, being duly sworn, deposes and says, that he is, and for a number of years has been, a shipping merchant at the city of New York and has owned, and does own, an interest in a number of vessels, and has bought and sold vessels at this port, and is well acquainted with vessels and their values.

That on the 26th day of May, 1862, deponent, at the request of the prize commissioners of this district, went to the Gowanus bay,

where the same was lying, to examine and appraise the said schooner; that the said schooner is in a fair condition; is of about 200 tons burthen, and is a flat-bottomed centre-board schooner, about 2½ years old; that, in deponent's opinion, she is worth the sum of four thousand one hundred dollars, including her sails, apparel, and furniture; and he appraises her at that sum.

JAMES SMITH.

Sworn to before me May 27th, 1862.

JOSEPH H. GRAY,
Notary Public.

[SEAL.]

108 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

James W. Hale, being duly sworn, says, that he was for many years a shipmaster, and has also been for many years acquainted with vessels and their values.

That on the 26th day of May, 1862, at the request of the prize commissioners, deponent examined the above-named vessel at Gowanus bay, in Brooklyn, where the same was lying; that the said vessel was formerly known as the "Tamaulipas." That he found the said vessel sound and in fair order; is coppered to the bends; her rigging is in good order; is a centre-board vessel, and has one suit of sails, and is about three years old.

That, in deponent's opinion, she is worth the sum of four thousand one hundred dollars; and he accordingly appraises her at that sum.

JAS. W. HALE.

Sworn to before me May 27th, 1862.

JOSEPH H. GRAY,
Notary Public.

[SEAL.]

Endorsed: 17, 82. U. S. district court. The United States *vs.* The schooner "Stephen Hart," &c. Prize commissioner's report of value of the vessel. E. J.

Filed May 27th, 1862.

109 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, tackle, &c., and cargo.

To the honorable Samuel R. Betts, judge of the United States court for the southern district of New York:

The exceptions of the United States of America, the libellants herein, to the claim of John Myer Harris, claimant of the schooner

Stephen Hart, her tackle, &c., herein, allege that the said claim is irregular and improper, as follows:

First exception. That the test affidavit thereto annexed does not state, briefly, the facts respecting the claim and its verity, according to the forty-second prize rule.

Second exception. That said test affidavit is scandalous and impertinent as to all the statements therein contained, from the words "That said schooner Stephen Hart, having her cargo laden, sailed from the port of London and Erith, on or about the 19th day of November, 1861," &c., &c., in the second paragraph of said test affidavit, down to the close of said affidavit.

Dated May 24th, 1862.

E. DELAFIELD SMITH,
U. S. District Attorney.

110 Endorsed: U. S. district court—17, 81. The United States *vs.* The schooner Stephen Hart, tackle, &c., and cargo. Exceptions of libellants to claim of John Myer Harris.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Filed May 27th, 1862.

Due service of exceptions, of which the within is a copy, is hereby admitted, and consent to file same is given.

May 24th, 1862. ALEX'R KURSHEEDT,
Proctor for Cl'm't Harris.

111 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the 27th day of May, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," and cargo. } In prize—17, 81.

By consent of Mr. A. Kursheedt, proctor for claimants, ordered that the exceptions to the claim of J. M. Harris be filed.

112 Filed 27th day of May, 1862.

113 United States district court.

THE UNITED STATES
vs.
THE SCH'R "STEPHEN HART" and her cargo, taken as prize.

To the honorable Samuel R. Betts, judge of the district court within and for the southern district of New York:

The undersigned, prize commissioners of this district, would respectfully report: That in pursuance of an order made and entered in this

cause, and dated the 24th day of February, 1862, they caused all the cargo of the above-named schooner "Stephen Hart," which consisted of arms, powder, and munitions of war, to be properly discharged from the said vessel and placed under the custody of the commandant of the navy yard of this port of New York, to be by him kept as if the same had remained in their possession; that having so discharged the same, they caused and procured a careful and accurate inventory thereof to be taken, and they have filed the same, under date of the 25th of March last, with the clerk of this court.

That the cargo so discharged was appraised, under their supervision, by Orison Blunt, the appraiser named in and appointed in the said order, and his report thereon has been duly made and filed in the office of the clerk aforesaid.

That the value of the cargo, so appraised by the said Orison Blunt, was two hundred and thirty-eight thousand eight hundred and forty-one $\frac{37}{100}$ dollars.

114 That under and by virtue of a further order of this court made and entered herein on the 3d day of March last, with the amendment therein made on the 16th day of April last, all the Enfield rifles, and certain other articles contained in the said cargo, which had been duly appraised under the supervision of the prize commissioners by the said Orison Blunt, and his report thereon having been duly filed, as hereinbefore stated, with the clerk of this court, the said rifles and other articles appraised were by them duly delivered to Flag Officer Hiram Paulding, U. S. N., commandant at the navy yard, New York, for the use of the navy, as more fully set forth in their report, on file in the clerk's office of this court, on the 15th day of April, 1862.

That they received from the Navy Department, on the 28th day of April, for the rifles and other portions of the said cargo so delivered to Flag Officer Paulding, as aforesaid, the gross sum of one hundred and sixty-nine thousand four hundred and seventy-seven $\frac{50}{100}$ dollars, being the value thereof, as appraised by the said appraiser.

That under and by virtue of a further order in this case, made and entered on the 4th day of March last, they delivered to the several bureaus of the War Department portions of the remaining cargo of the said prize, at the prices named in the appraisal of the said Orison Blunt, as aforesaid, and concurred in and approved by Major P. V. Hagner, U. S. army, as follows:

To the quartermaster's department, on the requisition of Lieutenant Colonel Vinton, dep'y quartermaster general, under date of April 23d, 1862, amounting to eight thousand four hundred and ninety-three $\frac{76}{100}$ dollars, as per schedule annexed, marked A.

115 To the ordnance department, on the requisition of Captain S. Crispin, under date of April 1st, 1862, amounting to twenty-four hundred and ninety-seven $\frac{35}{100}$ dollars, as per schedule annexed, marked C.

To the sanitary department, on the requisition of Dr. R. S. Satterlee, U. S. A., under date of April 3d, 1862, amounting to three

thousand two hundred and five dollars, as per schedule annexed, marked B.

That the prize commissioners received from the War Department for that portion of the cargo so appraised, and delivered to said department, as aforesaid, the appraised value thereof in money—that is to say, from the quartermaster's department, on the 15th day of May, 1862, the sum of eight thousand four hundred and ninety-three $\frac{76}{100}$ dollars.

From the ordnance department, on the 31st day of May, the sum of two thousand four hundred and ninety-seven $\frac{35}{100}$ dollars.

From the sanitary department there is still due and unpaid the sum of three thousand two hundred and five dollars.

That on the 29th day of April last the prize commissioners paid into the registry of the court the sum of one hundred and fifty thousand dollars, being part of the sums above mentioned, and took a receipt therefor from the clerk of this court, which is hereto annexed.

In order to bring into a more compact form the services performed, under the above-named several orders, the undersigned recapitulate as follows:

116 The value of the property which came into the hands of the prize commissioners, under the order of the 14th day of Feb'y, 1862, as appraised by Orison Blunt..... $238,841 37
Excess of 1,040 yards of Silesia, at 10 c..... 104 00

$238,945 37

Delivered to the Navy Department, under order of 3d March, 1862.....	$169,467 50	
To the quartermaster's department, under order of 14th March, 1862.....	8,493 76	
To the ordnance department, under order of 14th March, 1862.....	2,497 35	
To the sanitary department, under the same order.....	3,205 00	
The residue subject to the warrant of the marshal.....	55,281 76	
	238,945 37	238,945 37

Recapitulation of services performed by the prize commissioners under the several orders herein cited.

Discharge of cargo of over 1,800 packages at the navy yard, under order of Feb'y 14, 1862.

Opening packages, counting, and taking inventory thereof, under same order.

Filing report thereof in the clerk's office, on the 25th day of March.

117 Delivery to the Navy Department, under order of March 3d, the Enfield rifles and other property, amounting to $169,467 50.

Furnishing and forwarding invoice and vouchers to Washington.
Receiving proceeds and paying the same over to the clerk.
Filing report in the clerk's office, under date of 15th April, 1862.
Delivery to the several bureaus of the War Department, under order of the 4th day of March.
To the quartermaster's department, $8,493 76.
To the ordnance department, $2,497 35.
To the sanitary department, $3,205.
Furnishing invoices and vouchers to each department.
Receiving proceeds thereof and paying the same into court.
Filing this final report in the clerk's office this day.
And for these detailed services, in lieu of a commission, under each of the several orders, and on each of the several sums
118 herein set forth, the undersigned have retained a single commission of two and one-half per cent. on the appraised value of the property which came into their hands, subject, however, to the approval of the court, and they herewith deposit, in the registry thereof, the balance remaining in their hands, twenty-four thousand four hundred and eighty-four $\frac{98}{100}$ ($24,484 $\frac{98}{100}$) dollars in money, and a certificate of the indebtedness of the sanitary bureau of the War Department, as hereinbefore stated, as remaining unpaid, three thousand two hundred and five dollars, ($3,205,) indorsed over by the undersigned, and made payable to George F. Betts, esq., clerk of this court, which (he not having received) is retained by us, with the aforesaid sum of one hundred and fifty thousand dollars, makes an aggregate of one hundred and seventy-seven thousand six hundred and eighty-nine $\frac{98}{100}$ dollars ($177,689 $\frac{98}{100}$) deposited in the registry of the court, a receipt for which is hereby appended, marked D.

This has been paid over to the clerk and not retained.
E. H. O.

All of which is respectfully submitted.
Dated June 3d, 1862.

E. H. OWEN,
HENRY H. ELLIOTT.

119 SCHEDULE A.

Copy of invoice of that portion of the cargo delivered to the quartermaster's department, under order of the court of March 14, 1862.

15,061	yards of	Silesia, at 10 c	$1,506 10
2,255	"	brown Holland, at 10 c	225 50
7,500	"	white twilled flannel, at 16 c	1,200 00
250	"	brown canvas 10 c	25 00
328	"	ditto. 12 c	39 36
583	"	slate linen. 10 c	58 30
2,762	"	pairs of black leather bootees, Blucher pattern, at $1 75	4,833 50
20	cases	for packing, at 50 c	10 00

592 pairs russet leather shoes, Blucher pattern, at $1 00	$592 00
8 cases for packing, at 50 c	4 00
	8,493 76

E. H. OWEN.

SCHEDULE B.

Copy of invoice of that portion of the cargo delivered to the sanitary department, under order of court of the 14th March, 1862.

43 bales blankets, in all 1,750 pairs, at $1 50	$2,625 00
11 pairs panniers of medicine, at $40	440 00
1 case of lint, 200 lbs., at 70 c	140 00
	3,205 00

E. H. OWEN.

120 SCHEDULE C.

Copy of invoice of that portion of the cargo delivered to the ordnance department, under order of the court of March 14th, 1862.

20 bales cartridge paper, for Enfield rifles and other small arms; weight, in all, 13,197 lbs., at 5 c. per lb	$659 85
1 case cont'g 12 sets large screw-stocks and dies, and taps, with wrenches, at $16 per set	192 00
6 sets the same as the above, small, at $8 00	48 00
5,000 cones for Enfield rifles, at 3 cts. each	150 00
10 sets steel letters, at $3 00 per set	30 00
9 " figures, $1 00 "	9 00
9 hammers and rests, at 50 c	4 50
78 bbls., ea. cont'g 100 lbs. powder, 7,800 lbs., at 18 c. per lb	1,404 00
	2,497 35

E. H. OWEN.

121 SCHEDULE D.

The United States district court.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," and her cargo.

NEW YORK, *April* 29, 1862.

Received from H. H. Elliott and E. H. Owen, esqr's, prize commissioners, one hundred and fifty thousand $\frac{00}{100}$ dollars, the amount

of part of proceeds of goods delivered to the government in the above-entitled cause.

(Signed) G. F. BETTS, *Clerk.*

D.

NEW YORK, *June 3d*, 1862.

In addition to the sum of one hundred and fifty thousand dollars received by me in this case, as above stated in a copy of my receipt, dated the 29th of April last, I have this day received from E. H. Owen and Henry H. Elliott, U. S. prize commissioners, a further sum in money of twenty-four thousand four hundred and eighty-four $\frac{98}{100}$ dollars.

GEO. F. BETTS, *Clerk.*

$150,000	00
24,484	98
174,484	98

122 Endorsed: In prize—17, 81. U. S. district court. The United States *vs.* The sch'r "Stephen Hart," and her cargo, taken as prize. Prize commissioner's report, 2.

Filed June 3, 1862.

123 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," tackle, &c., and cargo.

SIR: Please to take notice, that the prize commissioners having presented to the Hon. Samuel R. Betts, judge, &c., sitting in prize, the report of the said prize commissioners, of their services under the five several orders of the court, dated, respectively, February 14th, 1862; March 3d, 1862; March 4th, 1862; April 16th, 1862; May 7th, 1862, I shall move the court, on this fourth day of June, 1862, at 2 o'clock p. m., for such action on the said report as the court may deem meet and proper.

New York, June 4th, 1862.

Yours, &c.,
E. DELAFIELD SMITH,
U. S. District Attorney.

To ALEXANDER KURSHEEDT, Esq.,
Proctor, &c.

124 Endorsed: 17, 82. U. S. district court. In prize. The United States *vs.* the schooner Stephen Hart, tackle, &c., and cargo. Notice of motion for action on report of prize comm'rs.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Due service of notice of motion, of which the within is a copy, is hereby admitted.

New York, June 4th, 1862.

ALEX. KURSHEEDT,
Proctor Cl'm'ts.

Filed June 13th, 1862.

125 At a term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Monday, the 16th day of June, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, apparel, and furniture; John Meyer Harris, claimant.

A motion having been this day made on behalf of the above-named claimant for an order that the proceeds of the sale of the above-mentioned schooner, deposited in the registry of this court, be invested with John J. Cisco, esq., assistant treasurer, &c., upon a certificate or certificates of deposit, bearing four per cent. interest: Now, on motion of Alexander Kursheedt, proctor for the said claimant, and after hearing the district attorney, and due deliberation having been had, it is ordered that the entire proceeds of the sale of the said schooner Stephen Hart be invested with John J. Cisco, esq., assistant treasurer, &c., upon a certificate or certificates of deposit, bearing four per cent. interest, and that said certificate be endorsed to be payable only on the order of this court, to be signed by the judge and clerk thereof, on notice to the proctors of the respective parties.

SAM'L R. BETTS.

126 Filed the 17th day of June, 1862.

127 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Monday, the 16th day of June, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c., and her cargo; Saul Isaac and Samuel Isaac, claimants of said cargo.

A motion having been this day made on behalf of the above-named claimants for an order that the proceeds of the sale of the above-

mentioned cargo, deposited in the registry of this court, be invested with John J. Cisco, esq., assistant treasurer, &c., upon a certificate or certificates of deposit, bearing four per cent. interest: Now, on motion of Alexander Kursheedt, proctor for the claimants, and after hearing the district attorney, and due deliberation having been had, it is ordered that the entire proceeds of the sale of the said cargo of said schooner Stephen Hart be invested with John J. Cisco, esq., assistant treasurer, &c., upon a certificate or certificates of deposit, bearing four per cent. interest, and that said certificate be endorsed to be payable only on the order of this court, to be signed by the judge and clerk thereof, on notice to the proctors of the respective parties.

SAM'L R. BETTS.

128 Filed the 17th day of June, 1862.

129 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART and her cargo, taken as prize.

To the honorable Samuel R. Betts, judge of the district court of the United States within and for the southern district of New York:

The undersigned, prize commissioners of this district, respectfully report that, under date of the 3d instant, they made a detailed report in the above case, bearing date the 3d day of May instant, to which reference is now made; that at the time of making said report there remained in their hands, from the proceeds of the sale of the cargo of the above-named prize, a residuary sum of five thousand nine hundred and seventy-three $\frac{63}{100}$ dollars, retained by them, as therein stated; that said sum was retained in pursuance of what they then deemed the usual practice of the court heretofore in cases of interlocutory sales; that the undersigned believed then, and still believe, that the amount therein mentioned as a proper sum to be allowed to them for the various services and labors rendered by them under the several orders of the court, particularly detailed and set forth in their report of the 3d of June inst., herein referred to, was fair and
130 just; that a large portion of the services performed by them in the discharge and care and safekeeping and final sale and delivery of the large property placed in their hands in this case were in their character commercial, rather than legal, and therefore the undersigned deemed that their charges for such services should be measured by the ordinary commercial standard of compensation for services so important. It is not proper for the undersigned to magnify the importance of the labors performed by them under the several orders of the court above referred to; but where the results of their proceedings have been so manifestly for the advantage and benefit of all parties interested in the property in question, and where such labors have saved to the parties, as in this case, nearly

thirty-two thousand dollars, by reason of the prompt and early sale and delivery of such property to the government, at prices much beyond any present value, they may fairly claim that it is in some degree, at least, owing to the vigilant action of the undersigned, and for which, too, they may reasonably ask due compensation.

The undersigned likewise further report that, under a further order of the court of the 7th of May last, the residue of the cargo of the above-named prize, which at the time of making their last report remained in the custody of the court, has been sold by the marshal, under the superintendence of the undersigned; that they attended the sale of the said property by the marshal, on the 22d day of May, at the Union stores, Brooklyn, and at an adjourned sale of a
131 portion thereof, on the 28th day of May; that these sales by the marshal complete the entire disposition of the cargo of the said prize, and the labors of the undersigned in relation thereto.

The undersigned have no hesitation in repeating the statement made by them in their former report, that the amount retained by them for their services was just and fair; but at the same time they willingly submit their case to the wisdom of the court, and they have accordingly paid into the registry thereof the aforesaid sum reserved by them, and they annex hereto the receipt of the clerk of this court for the same. All of which is respectfully submitted.

E. H. OWEN.
HENRY H. ELLIOTT.

New York, June 25th, 1862.

The undersigned further report that, under the above-named order of the court, of the 7th day of May last, they took measures to appraise the above-named schooner Stephen Hart, which appraisal was filed with the clerk of this court on the 27th day of May last, and on the 31st day of the same month they attended and superintended the sale thereof by the U. S. marshal, at the foot of Montague st., Brooklyn. Annexed hereto is an abstract from the register of the undersigned in the above case.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

New York, June 25, 1862.

132 Received, New York, June 21, 1812, from Messrs. E. H. Owen and Henry H. Elliott, prize commissioners, fifty-nine hundred and seventy-three $\frac{63}{100}$ dollars, in addition to the amounts heretofore received by me as proceeds of the sale of the cargo of the prize Stephen Hart. ($5,973\frac{63}{100}$.)

GEO. F. BETTS, *Clerk.*

133 Feb'y 13, 1862.—Rec'd of Geo. M. Colvocoresses, U. S. N., and commander U. S. storeship Supply, all the papers found on board; also two log books, and one U. S. coast survey, marked 28 Exhibits, and took his affidavit thereon.

Feb'y 13, 1862.—Took the deposition of John Liesk, on the stand'g interrogatories "*in preparatorio.*"

Feb'y 13, 1862.—Took the deposition of Benj'n H. Chadwick, 1st mate, on the standing interrogatories.

Feb'y 14, 1862.—Rec'd certified copy of order of the court to deliver vessel and cargo into the hands of Commodore Paulding, at the navy yard, Brooklyn; deposited the same with Commodore Paulding, who accepted charge thereof.

Feb'y 15, 1862.—Took the deposition of C. N. Dyett, on the standing interrogatories *in preparatorio.*

Feb'y 15, 1862.—Took the deposition of Charles Wellmann, on the standing interrogatories *in preparatorio.*

Feb'y 17, 1862.—Took the deposition of Rob't Allen, on the standing interrogatories *in preparatorio.*

Feb'y 17, 1862.—Gave notice to district att'y of intention to close testimony and file papers with clerk of the court.

Feb'y 25, 1862.—Under order from the court took additional testimony of John Liesk.

Feb'y 27, 1862.—Notified the dist. att'y that above had been taken.

March 4, 1862.—Filed all papers with the clerk of the court.

March 4, 1862.—Rec'd order from the court to have the rifles appraised by Orison Blunt, esq., and deliver the same to Commodore Paulding for the use of the navy.

March 4, 1862.—Received certified copy of order of the court that the cargo be appraised by Orison Blunt and Major P. V. Hagner, U. S. A., and that such portion of the cargo as the latter may desire be delivered to him for the use of the War Department.

134 March 4 to 26th, 1862.—Visited the navy yard several times, and examined and delivered several portions of the cargo to the Navy Department.

April 3, 1862.—Rec'd letter from ordnance office to Orison Blunt, in relation to portion of cargo purchased for the use of the government.

April 3, 1862.—Gave order to Orison Blunt to deliver the same to the authorized of the War Department.

April 4, 1862.—Gave order to Orison Blunt to deliver to the medical department of the government 11 pair panniers, 43 bales, (blankets,) and one case of lint, on the requisition of R. J. Satterlee, surgeon U. S. A.

M'ch 25, 1862.—Filed report and inventory in clerk's office.

April 4, 1862.—Notified A. Kursheedt, proctor, &c., to examine statement about to be sent to the Navy Department of the property delivered to that department.

April 15, 1862.—Sent the report of the delivery of a portion of the cargo to the Navy Department, in obedience to the order of the court of March 3d, to the Hon. Gideon Wells, Sec'y of Navy.

April 15, 1862.—Rec'd letter from J. Letterman, Wheeling, Va., in relation to medical stores.

April 15, 1862.—Answered the above.—(See copy on file.)

April 15, 1862.—Answered Commander J. J. Almy's letter to Orison Blunt on the same subject.

April 24, 1862.—Rec'd from Orison Blunt the requisition of L't Col. Vinton for a quantity of merchandise for the use of the army, a portion of the cargo of above vessel.

April 24, 1862.—Wrote letter to Orison Blunt, giving orders to deliver the above merchandise to the War Department, and
135 make his report to this office.

April 28, 1862.—Received from the Navy Department and deposited in the City Bank one hundred and sixty-nine thousand four hundred and sixty-seven $\frac{50}{100}$ dollars for portion of cargo taken at the appraisal of Orison Blunt.

April 29, 1862.—Paid Geo. F. Betts, clerk U. S. district court, $150,000 on ac. of above.

May 1, 1862.—Took the affidavit of Orison Blunt, that the remaining portion of the cargo is deteriorating in value, and from the daily decreasing demand for the same, resulting from the approaching termination of the war, the same should be speedily sold.

May 3, 1862.—Wrote to Col. Vinton requesting an early interview for the receipt of vouchers of portion of the cargo.

May 6, 1862.—This day handed to the district attorney a report in favor of selling the balance of the cargo.

May 7, 1862.—Identified the ship's articles found between the leaves of the log-book, where it had been accidentally left.

May 7, 1862.—Rec'd order from the court for the sale of vessel and remainder of the cargo, under supervision of the prize commissioners.

May 9, 1862.—Visited the navy yard and obtained the consent of Commodore Paulding to sell the remaining portion of the cargo at the navy yard.

May 12, 1862.—Wrote to the U. S. marshal, informing him of the above.

May 12, 1862.—Rec'd from Col. Vinton draft for eight thousand five hundred and eight $\frac{76}{100}$ dollars for that portion of the cargo delivered to the quartermaster's department.

May 12, 1862.—Deposited the same in the City Bank.

136 May 14, 1862.—Rec'd letter from Reuben M. Potter in relation to an error in the ac. of m'd'se delivered.

May 14, 1862.—Answered the above, stating that the error should be corrected on the return of the funds from Washington.

May 16, 1862.—Wrote to U. S. marshal, ordering sale for Thursday next, as the order for sale does not require another appraisement.

May 22, 1862.—Spent the day at the navy yard and superintended the sale of the balance of the cargo.

May 23, 1862.—Appointed Ja's Smith and Ja's W. Hale to appraise and ascertain the value of the vessel.

May 23, 1862.—Notified Mr. A. Kursheedt that the vessel would be appraised 26 h inst.

May 24, 1862.—Wrote note to Simeon Draper requesting him to pay bills for advertising, after conferring with the marshal.

May 27, 1862.—Took the affidavit of James Smith that he had appraised the vessel, and considers her worth four thousand one hundred dollars, with sails, apparel, and furniture.

May 27, 1862.—Took the affidavit of Ja's W. Hale, to the same effect.

May 27, 1862.—Filed report covering the above affidavits with the clerk of the court.

May 27, 1862.—Notified the marshal that above report was filed.

May 28, 1862.—Attended adjourned sale at Mr. Draper's, 36th Pine st., and superintended same.

May 31, 1862.—Attended sale of the vessel at the foot of Montague st., Brooklyn.

May 31, 1862.—Rec'd F. E. Spinner's draft for portion of cargo taken by the ordnance dep't, $2,497 35.

May 31, 1862.—Deposited the same in City Bank.

June 2, 1862.—Paid G. F. Betts, clerk U. S. district court, twenty-four thousand four hundred and eighty-four $\frac{98}{100}$ dollars.

137 June 20, 1862.—Paid ditto balance in our hands, five thousand nine hundred and seventy-three $\frac{63}{100}$ dollars.

The above is an abstract from the register of the prize com'rs in this case.

HENRY H. ELLIOTT.

Endorsed: 17, 81, 199. U. S. district court. In prize. The United States *vs.* The Sch'r "Stephen Hart" and her cargo. Supplementary report of U. S. prize commissioners. Filed June 25, 1862.

138 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the 22d day of July, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES OF AMERICA
vs.
THE SCHOONER STEPHEN HART, &c., and cargo. } In prize. 17, 81.

The U. S. district attorney moves the hearing of this cause.

Ordered, That it be set down for hearing to-morrow morning, (Wednesday.)

Wednesday 23d July, 1862.—The U. S. district attorney moves the hearing of this cause.

Mr. Kursheedt argues for the postponement of the hearing.

Mr. E. C. Benedict argues for postponement.

After consultation, the cause was laid over, by consent, for the present.

139

140 U. S. district court.

THE UNITED STATES
vs.
THE STEPHEN HART AND HER CARGO, taken as prize.

Bill of the prize commissioners.

Gross proceeds of cargo	$226,551
" " vessel	10,000
Total	236,551

Of this sum, the prize commissioners collected from the government for arms, munitions of war, &c., &c., taken for government purposes, as stated in the affidavits and reports herewith presented, the sum of $180,463 61, and paid the same into court. They also had the custody of the prize property from the time of its arrival to its delivery to the government, a period of near three months, and were called upon to render, and did render, peculiar services in the case, (as shown by the affidavits and reports before referred to,) differing essentially from their ordinary duties as prescribed by the prize rules and practice of this court, and for which no compensation is prescribed; which services having been rendered prior to the acts relating to compensation, are not affected thereby, (even if such acts embrace the prize commissioners;) therefore, and upon these considerations, the prize commissioners make a charge of $4,511 39 for their joint services herein, being equivalent to 2½ per cent. on the amount which they collected and received from the government, and
141 paid into court as above stated, which sum is approved by the U. S. dist. attorney and the proctor for the captors, as appears by their certificate hereto annexed, and is supported by the affidavits herewith presented.

Prize commissioners' charges, $4,511 39.

New York, Aug. 4, 1862.

142 SOUTHERN DISTRICT OF NEW YORK:

In the matter of the taxation of costs or compensation to the prize commissioners within this district for official services in the case of the prize schooner Stephen Hart and her cargo, the bill of costs or charges therein having been submitted to me, and having been maintained by oral argument by the prize commissioners in person, and by E. Delafield Smith, esq., attorney of the United States for the libellants, and by F. H. Upton, esquire, of counsel for the captors; and the said counsel having further, respectively, filed their consent, in writing, to the allowance, in full, of the above bill of charges; and the documents and vouchers annexed having been examined by me; and considering that the capture of the said prize property and the proceedings instituted in court against the same were substantially performed prior to the approval of the act of Congress of March 25,

1862, and that no stated fees or compensation for the services, charged as above, had then been appointed by law in the courts of the United States, and that the said charges were not prohibited by law. I allow and tax the foregoing bill of costs at four thousand five hundred and eleven dollars and thirty-nine cents, $4,511\frac{39}{100}$.

It being, however, understood that this taxation and allowance is not to operate as a precedent to govern any subsequent allowance of costs for services not resting upon and supported by like facts and circumstances, or which fall within and are controlled by laws or usages of the court existing at the time of taxation.

New York, August 4, 1862.

SAM'L R. BETTS.

143 United States district court.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART and her cargo, taken as prize.

In the above case I have carefully examined the reports of the prize commissioners, and their account of charges thereon, and I do hereby consent that the same be taxed in the full amount claimed by them, the same being, in my opinion, just and reasonable under all the circumstances.

New York, Aug. 4, 1862.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

I do most fully and heartily concur in the above opinion, and consent thereto.

New York, Aug. 5th, 1862.

F. H. UPTON.

144 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART" and her cargo, taken as prize.

SIRS: Take notice that upon the affidavits, copies of which are herewith served upon you, and upon the reports, papers, and proceedings on file in this cause, the prize commissioners will apply to the Hon. Judge Betts, at his chambers, on the 12th day of July instant, at 10 o'clock a. m., or as soon thereafter as counsel can be heard, to have the amount of compensation to be allowed and paid to the prize commissioners, for their services in this cause, adjusted and fixed, and for an order that the amount so adjusted be paid by the clerk out of the funds deposited in the registry of this court, to the credit of this cause, and for such further or such other order as

may be according to law and the course and practice of this court in like cases.

New York, July 10th, 1862.

Yours, &c.,
EDWARD H. OWEN.
HENRY H. ELLIOTT.

To E. DELAFIELD SMITH, Esq.,
U. S. Dist. Att'y, for captors.
A. KURSHEEDT, Esq.,
Proctor for Cl'ts.

145 U. S. district court.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART" and her cargo, taken as prize.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Edward H. Owen, one of the prize commissioners of said district, being duly sworn, deposes and says, that the annexed statement of the services rendered by the prize commissioners of this district, in the above-entitled cause and in reference to the said prize, is true, according to the best of his knowledge, information, and belief. That the said vessel and cargo were brought into this district as a prize on or about the thirteenth day of February last, and the prize property was thereupon taken into the custody of the prize commissioners, and retained by them for several days thereafter, and until about the eighteenth day of February last, when the same was taken by and into the custody of the marshal, under due process of law. That the commissioners took the testimony *in preparatorio*, according to the rules of this court; that they attended upon the discharge of the said cargo, made under an order of this court, and superintended the same, and took an inventory thereof, and made their written report thereon to this court. That they also attended upon and delivered portions of the said cargo to the government, and afterwards received the value thereof and deposited the same in the registry of this court; that they also attended upon and super-

146 intended the sale of that portion of the cargo which was ordered to be sold, and rendered other services, which are more particularly detailed in the affidavit of deponent's associate commissioner.

He further says, that a large amount of services have been rendered by the commissioners, which cannot be specified in detail. That the services in taking charge of the cargo while in their possession, in attending upon and superintending the discharge of the cargo and the storage of the same, the making of an account or inventory thereof, the appraising of the same, the delivery to the different officers of government of that portion taken for government purposes, the receiving and paying the proceeds into the registry of

the court, and the attending upon and superintending the sales of that portion sold by the marshal, were of a mercantile character and description, and should be compensated according to mercantile usage.

He further says, that he has made inquiries, and, according to the best of his knowledge, information, and belief, such mercantile compensation would be measured by a commission upon the gross proceeds, and which, he believes, is the proper mode of adjusting the same under all the circumstances.

He further says, that he is informed and believes that the usual commission which would be allowed and charged by a commission merchant for like services, in the absence of any agreement to the contrary, would be not less than two and a half per cent. on the amount of proceeds, and he refers to the affidavits hereto an-
147 nexed in support thereof. He further says, that such charge is the same as was allowed to them on the sales in the cases of the "Sarah Starr" and the "Pioneer;" that it is not more than is by law allowed to auctioneers for selling property.

He further says, that the commissions which by the laws of this State are allowed to executors and administrators guardians, trustees, receivers, and the like, are fixed at five per cent. on the first $1,000 received and paid out; 2½ per cent. on the next $4,000; and one per cent. on the balance of the gross sum received and paid over.

This deponent, however, believes that a commission of 2½ per cent. upon the gross proceeds of the prize property, in the present case, will not be unreasonable, but will, on the contrary, be "a just and reasonable compensation" for their services in this case.

EDWARD H. OWEN.

Sworn before me this 10 day of July, 1862.

JOSEPH H. GRAY,
Notary Public.

148 United States district court.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART and her cargo.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Henry H. Elliott, one of the prize commissioners of this district, being sworn, says that, under and by virtue of the several orders of this court, made and entered in this cause, he has attended upon and superintended the discharging of the cargo of the above named schooner, and the placing of the same into warehouse at the navy yard, and in the taking and preparing of an inventory thereof; that there were safely discharged from the said vessel about nineteen hundred packages, containing arms, equipments, military cloths, and various munitions of war, and, in addition thereto, more than one thousand loaded shells, with the fuse attached, ready for immediate use—an operation of great danger to life and property, and for the proper and safe discharge of which the prize commissioners were responsible as well for their own

acts as the acts of those to whom they confided this dangerous duty; that the service was exceptional and peculiar as well as hazardous; the explosion of a single shell might have destroyed every life on board and the entire property; that he also opened a correspondence with the War and Navy Departments of the government at Washington in respect to the same, and arranged for the sale and
149 delivery of a large portion thereof to the government; that the delivery of that portion of the cargo required care, attention, and accuracy, the furnishing the requisite invoices, vouchers, and statements, the preparing and filing the several reports required in and by the orders aforesaid, the correspondence with the several departments of the government relative to the payment and collection of the proceeds of the property so taken; and having received the same, they paid the gross amount thereof into court, without any deduction whatever; that there still remains due from the Medical Bureau of the War Department the sum of three thousand two hundred and five dollars, waiting the passage of the usual appropriation law by Congress; that, in attending to these various duties, it was necessary to make several visits to the offices of the War and Navy Departments at this port, and to the navy yard where the property was placed by order of the court, all of which required time, attention, and labor; that, in addition to all this, deponent arranged with the commander of the navy yard for permission to sell at the navy yard the remainder of said cargo not taken by the government, as aforesaid, thereby saving the expense of removal into another warehouse and the cost of storage; that he attended and superintended the sale by the marshal of this residue, and an adjourned sale of a portion thereof; deponent likewise attended upon the appraisal and sale of the vessel in question, in addition to the appraisal and sale of her cargo, as herein stated; that, in addition to these duties, the prize commis-
150 sioners have taken the testimony in preparatorio, and discharged all the various duties imposed upon them by law and the rules and practice of this court, as has been fully set forth in detail in their report in this case, filed on the 25th day of June last, with a statement thereto appended. The deponent further says, that the appraised value of the said cargo, in addition to the value of the vessel, was two hundred and thirty-eight thousand nine hundred and forty-five $\frac{37}{100}$ dollars; that the vessel in question was sold by the marshal for ten thousand dollars; that the charge made by the prize commissioners for these services, which covers all disbursements and charges for legal as well as commercial services in the case, as fully set forth herein, is two and one-half per cent. on the said amount of cargo and vessel, and amounts to the sum of $3,111 85 to each commissioner, which deponent deems reasonable and just, and which opinion is sustained by the affidavits of Thomas Tileston and Cyrus Curtiss, esqs., herewith presented.

HENRY H. ELLIOTT.

Sworn to before me this 11th day of July, 1862.

JOHN A. OSBORN,
U. S. Comm'r.

151 District court of the United States for the southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART and her cargo, taken as a prize.

SOUTHERN DISTRICT OF NEW YORK, CITY OF NEW YORK, *ss:*

Cyrus Curtiss, being duly sworn, deposes and says, that he has been for many years a merchant in the city of New York; that at the request of the United States prize commissioners he has examined the report and supplemental report of the said prize commissioners of the 3d and 25th days of June; that he deems the charge of two and one-half per cent. commission for the services performed by them in the above case, as therein set forth, reasonable and just. And further, deponent desires to add that he deems the charges made by the prize commissioners, for the services set forth in their report, extremely moderate, and that they might justly claim a larger compensation.

CYRUS CURTISS.

Subscribed and sworn before me this 1st day of July, 1862.
F. B. ELLIOTT, [SEAL.]
Notary Public.

152 District court of the United States for the southern district of New York.

THE UNITED STATES
vs.
THE SCH'R "STEPHEN HART" and her cargo, taken as a prize.

SOUTHERN DISTRICT OF NEW YORK, CITY OF NEW YORK, *ss:*

Thomas Tileston, of the firm of Spofford & Tileston, being duly sworn, deposes and says, that he has been for many years a merchant in the city of New York; that at the request of the United States prize commissioners he has examined the report and supplemental report of the said prize commissioners of the 3d and 25th days of June; that he deems the charge of two and one-half per cent. commission, for the services performed by them in the above case, as therein set forth, reasonable and just.

T. TILESTON.

Subscribed and sworn before me this 1st day of July, 1862.
F. B. ELLIOTT, [SEAL.]
Notary Public.

153 Filed 16th August, 1862.

154 U. S. district court, S. D. of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, &c., and her cargo.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Benjamin H. Chadwick, being duly sworn, says that he was first mate of the schooner Stephen Hart at the time of her seizure by the United States storeship "Supply;" that certain letters and papers, belonging to this deponent, were seized by the captors, and retained by them until the 28th day of April, 1862, when, without any application to the court, a portion of the same were taken from the rest of the papers seized on board of said schooner and handed over to this deponent by Henry H. Elliott, esq., prize commissioner; that said letters, so handed over to this deponent, were a part of the letters mentioned in the preparatory examination of John Leisk, and therein stated by said Leisk to have been placed in the teapot by said Leisk, at this deponent's request, and afterwards discovered by the capturing crew.

BENJ. H. CHADWICK.

Sworn to before me this 6th day of May, 1862.
R. E. STILWELL,
U. S. Com'r.

155 Endorsed: 17, 81. U. S. district court. The United States *vs.* The schooner Stephen Hart, &c. Affidavit of Chadwick, as to return of letters to him.

ALEX'R KURSHEEDT,
Proctor Claimants.

Filed Oct. 25, 1862.

156 District court of the United States for the southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, apparel and furniture, and her cargo. } In prize.

KINGDOM OF GREAT BRITAIN, CITY OF LONDON.

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The claim of John Myer Harris, late of Liverpool, in the county of Lancaster, England, but now of Sherbro, on the western coast of Africa, at present residing at No. 8, Clifton Terrace, Maida Hill, in the county of Middlesex, England, merchant, to the libel of the United States against the schooner "Stephen Hart" and her cargo, shows that the claimant was, at the time of seizure of the said ship and cargo, the true and only owner of the said schooner Stephen

Hart, her tackle, apparel, and furniture, and no other person is the owner thereof.

Wherefore the claimant prays that the said vessel, her tackle, apparel, and furniture, may be delivered up to him, as the lawful, sole, and entire property of a subject of the Crown of Great Britain, or that the proceeds thereof, with damages for detention and injury thereto, may be paid to him, and that the libel may be dis-
157 missed.

JOHN MYER HARRIS.

Sworn to at the Mansion House in the city of London, this 23d day of August, 1862, before me.

THO'S CHALLIS, *Ald'n.*

Consulate of the United States of America, at London.

I, Freeman H. Morse, consul of the United States of America for London and the dependencies thereof, do hereby make known and certify to all whom it may concern, that Thomas Challis, before whom the annexed affidavit was made, as appears by his signature thereto, is an alderman and a magistrate of the city of London, aforesaid, duly authorized to receive affidavits, and that to all acts by him so done, full faith and credit are and ought to be given in judicature and thereout.

In testimony whereof, I have hereunto set may hand and affixed the seal of the consulate of the United States, at London, this 23d day of August, in the year of our Lord one thousand eight hundred and 62, and in the eighty-seventh year of the independence of of the said United States.

{American Consulate Seal, London.}

F. H. MORSE.

Endorsed: 17, 81. U. S. district court S. D. of New York. The United States *vs.* The Schooner Stephen Hart, &c., and her cargo. Claim of J. M. Harris on behalf of vessel.

ALEX. KURSHEEDT,
Proctor of Claimant.

Filed October 25, 1862.

158 District court of the United States for the southern district of New York.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART, her tackle, apparel and furniture, and her cargo. } In prize.

KINGDOM OF GREAT BRITAIN, CITY OF LONDON:

John Myer Harris, late of Liverpool, in the county of Lancaster, England, but now of Sherbro', on the western coast of Africa, at present residing at No. 8, Clifton Terrace, Maida Hill, in the county of Middlesex, England, merchant, being duly sworn, says that he is a resident of Africa, and a subject of the Queen of England; that the deponent in good faith, on or about the twenty-eighth day of

September, one thousand eight hundred and sixty-one, agreed to become the purchaser at a fair and bona fide sale of said vessel for the sum of one thousand seven hundred and fifty pounds, which sum it was agreed should be paid on the twenty-eighth day of October, one thousand eight hundred and sixty-one, but which purchase money it was subsequently arranged should be paid on the fourteenth day of the same month of October, and then upon an abatement or discount of five pounds ten shillings and threepence was made from the said purchase, and the balance of one thousand and seven hundred
159 and forty-four pounds nine shillings and ninepence only paid; that at the time of such sale the said vessel lay at the port of Bristol, England; that on deponent's purchase, he took possession of said vessel, loaded her with a cargo for London, to which port she proceeded and delivered her cargo; that thereafter the vessel was loaded with a cargo of goods the growth, produce, or manufacture of Great Britain, partly at the port of London, and partly at the port of Erith, both in England; that said property consisted of arms, ammunition, military clothing, and was and is the sole property of S. Isaac, Campbell & Co., and no other person, to this claimant's knowledge or information or belief; that said vessel having been loaded, as aforesaid, she proceeded, having first shipped her crew and duly cleared for the port of Cardenas, for which port the cargo on board said vessel was destined; that said vessel then was, and always since, until the sale thereof by direction of this honorable court, has been a British vessel, under the British flag; that it was not intended that the said schooner should enter or attempt to enter any port of the United States; that her true and only destination, with the said cargo, was Cardenas, where the same was to be delivered, and the vessel was thence to sail to this deponent in Africa, if she obtained a suitable cargo for that country.

That said vessel, at the time of the seizure, was on a voyage from a neutral port to a neutral port, and was not violating any law
160 of nations; that the vessel and cargo were and are British property, the vessel owned by deponent, and the cargo owned by S. Isaac, F. Campbell & Co., and another person.

That if the said vessel had been discharged from arrest by this honorable court, she would have been the true and bona fide property of this deponent and no other person, and that no other person would have been entitled to the delivery thereof or the possession of the same.

That this deponent left England for the coast of Africa, on the twenty-fourth day of November, one thousand eight hundred and sixty-one, and did not return until the night of the ninth day of August, instant.

JOHN MYER HARRIS.

Sworn to, at the Mansion House, in the city of London, this 23d day of August, 1862.

Before me,

THO'S CHALLIS, *Ald'n.*

Consulate of the United States of America, at London.

I, Freeman H. Morse, consul of the United States of America for London and the dependencies thereof, do hereby make known, and certify to all whom it may concern, that Thomas Challis, before whom the annexed affidavit was made, as appears by his signature thereto, is an alderman and a magistrate of the city of London aforesaid, duly authorized to receive affidavits, and that to all
161 acts by him so done, full faith and credit are and ought to be given in judicature and thereout.

In testimony whereof, I have hereunto set my hand and affixed the seal of the consulate of the United States, at London aforesaid, this 23d day of August, in the year of our Lord one thousand eight hundred and 62, and in the eighty-seventh year of the independence of the said United States.

{ American Consulate Seal, London. }

F. H. MORSE.

Endorsed: 17, 81. In prize. U. S. district court, S. D. of New York. The United States *vs.* The schooner Stephen Hart, &c., and her cargo. Test oath of J. M. Harris on behalf of vessel.

ALEX. KURSHEEDT,
Proctor Claimants.

Filed October 25, 1862.

162 U. S. district court.

THE UNITED STATES
vs.
THE STEPHEN HART and cargo.

I hereby consent that the testimony of ———— Chadwick, taken herein *in preparatorio*, by the prize commissioners, be opened without prejudice to either party, and to the entry of an order to that effect.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

New York, Dec. 4, '62.

Endorsed: 17, 199. U. S. dist. court. The United States *vs.* Sch'r Stephen Hart and cargo. Consent to open testimony of Chadwick. Ent'd order.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Filed Dec. 4, 1862.

163 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Thursday, the 4th day of December, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," &c., and cargo. } 17, 199.

On reading and filing consent, signed by the U. S. district attorney, ordered that the testimony of Benjamin H. Chadwick, taken herein *in preparatorio*, by the prize commissioners, be opened without prejudice to either party.

164 Filed the 4th day of December, 1862.

165 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the eighth day of April, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES, &c.,
vs.
THE SCHOONER STEPHEN HART and cargo. } In prize—17, 81.

Mr. Andrews, ass't U. S. district attorney, moves the hearing of the above cause, reads pleadings, states facts, &c., and also moves for the condemnation of the vessel and cargo as lawful prize.

Mr. A. Kursheedt appears on behalf of the claimants of vessel and cargo.

Messrs. Benedict, Morton, and Donohue appear as advocates for the claimants.

Mr. Upton appears as advocate for the naval captors in interest.

Papers submitted.

Briefs to be handed in within 20 days.

C. A. V.

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167 District court of the United States for the southern district of New York.

Deposition of Charles Nathaniel Dyett, (master,) a witness produced, sworn, and examined, *in preparatorio*, on the fifteenth day of February, in the year eighteen hundred and sixty-two, at the office of E. H. Owen, U. S. prize commissioner, No. 72 Wall street, in the city of New York, on the standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination, by E. Delafield Smith, U. S. dist. attorney, in behalf of the captors of a certain ship or vessel called the Stephen Hart and her cargo.

1. To the first interrogatory he says: I was born at Demarara, in the British West India islands. I now live in London. I am mar-

ried, and my family lives there; I have lived there most of my life. I am not a citizen of the United States. I owe allegiance to the Queen of Great Britain.

2. To the 2d interrogatory he says: I was present at the capture of the above-named vessel.

168 3. To the 3d interrogatory he says: The capture was made on the 29th of January last, at about ½ past one o'clock p. m., in latitude 24° 12′ north, and 82° 14′ west longitude, and eighty-two miles, or thereabouts, from point "de Yeacos." The vessel was brought to New York. The schooner had no commission, or letters authorizing her to make prizes. There were no reasons given for making such seizure.

4. To the 4th interrogatory he says: The vessels sailed under British colors. She had also on board Maryatt's Code; the American flag—that is, the "stars and stripes." I do not remember of seeing any secession flag aboard. There were other flags in the bag; I don't know what they were. I did not bother myself about the bag. In fact, if you were to put a secession flag before me I should not know it. The reasons we had the other colors were, that it is a rule to carry Maryatt's Code, to make signals. I don't know why the American flag was on board. She had been an American ves-

169 sel, and, I suppose, the flag was bought with her. I know not why the colors in the bag, whatever they may have been, were aboard.

5. To the 5th interrogatory he says: The capturing vessel fired three guns. The capture was made by the United States storeship "Supply." There were no other ships in sight at the time. The vessel captured was a merchantman, and the "Supply" was a vessel in the service of the government of the United States. She carried four guns.

6. To the 6th interrogatory he says: I don't know whether or not the "Supply" had any commission to act on such seizure. The schooner has not been condemned.

7. To the 7th interrogatory he says: The name of the vessel so taken was the "Stephen Hart," and I was her master and commander. I was appointed to such command in London, England, on the 15th of November last, I think, by the Messrs. Isaacs, Campbell & Co., of London, merchants. I have known the schooner

170 since that date. I never knew her before. Mr. Saul Isaacs, of that firm, delivered the vessel to me at the time and place before stated.

8. To the 8th interrogatory he says: The schooner is 219 tons English measurement. The ship's company, at the time of capture, consisted of ten officers and crew, including myself, all told, and all were on board. It was a mixed crew—some English; some French; some Swedes; and the first mate was an American. They all came aboard at London at the same time, except the mate, whom I shipped at Gravesend; that is, I put him upon the "articles" there, although he was aboard when I left London, looking after the stowage of the vessel. The mate whom I had shipped did not join the vessel, and so I made him, and put him as such on the ship's arti-

cles, and entered the fact in the log-book. I think the crew joined the vessel the same day I cleared the custom-house at Lon-
171 don, which was on the 19th of November last. I shipped the crew myself. I hired them there at London.

9. To the 9th interrogatory he says: I have already stated that I was the master and commander of the vessel at the time of her seizure. I had no interest whatever in either vessel or cargo, nor had any of the other officers or crew any interest therein.

10. To the 10th interrogatory he says: I have already stated how long I have known the vessel, and where I first saw her, which was in London. She carried no guns. She was an American-built vessel. Her name was "Stephen Hart." I don't know how long she had been so called, but this was her name when I joined her. I think she had been previously called "Tamaulipas;" I saw that name in her register.

11. To the 11th interrogatory he says: The vessel was bound for Cardenas, in the island of Cuba. That voyage began in Lon-
172 don, and was to have ended at London. When the vessel sailed from London, on that voyage, she was loaded with a cargo consisting of British manufactured goods, in bales and cases, the contents of which were unknown to me. I saw that some of the cases were marked "Long Enfield," which, I suppose, contained "long Enfield guns." I think I saw a few bales marked "socks." I can't think of anything else. The ship was more than half loaded before I joined her. I don't know what had been put aboard before I joined her. After I joined her, the boxes marked as above were put aboard. She had the same cargo on board, when seized, as she had when she left London. It was all put aboard at London in November last, except some which she took in after she sailed from London and "Erith," on the Thames. We then took in some packages containing a custom-house stamp, "Ball-cartridges." I can't say how much. I was not there at the time. I had gone down to Gravesend to wait for her, and when she came there I again
173 joined her. She had no goods on board which were contraband of war, nor otherwise prohibited by law.

12. To the 12th interrogatory he says: The vessel had no passport or sea-brief on board. I don't know to what ports or places the vessel had sailed on previous voyages before I joined her. I heard that she had come from Mobile to Havana, and thence to Bristol, where she was purchased by her present owners, and took in a cargo of stores there and went to London, where she was when I took charge of her. I don't know what cargo she carried out from Mobile. I don't know what cargo she carried into Mobile. This is all I know about her former history.

13. To the 13th interrogatory he says: I have already stated all I know concerning the cargo which the vessel had on board when she sailed on the voyage on which she was captured. It was all aboard at the time of capture.

14. To the 14th interrogatory he says: The vessel was
174 owned by John M. Harris, who resides at Liverpool, England.

I know him; he is a merchant of that place. He is an Englishman, and owes allegiance to the Queen. The only way I know that he was the owner is by seeing his name in the "register" as owner. I don't know who owns the cargo, but my impression is that it belongs to Isaacs & Campbell & Co., before mentioned, who, I believe, are English. They live in London, with their families. It is an old firm, and I think they have resided there many years.

15. To the 15th interrogatory he says: I know nothing about any bill of sale, nor about any agreement to purchase the vessel.

16. To the 16th interrogatory he says: The cargo was, as I have before stated, put aboard at London and "Erith," in or about the month of November last. I don't know who were the laders of the cargo. The consignee of the cargo was Major J. H. Helms. I don't know what countryman he is. That was according to my
175 written instructions which I now hold in my pocket, and which was given to me on the day I sailed from London, on the 19th November last. Major Helm resides in Havana. I don't know where he had resided before. I don't know for whose risk and account the goods were. I don't know what interest Major Helms had in the goods. My impression is that the goods belonged to Isaacs, Campbell & Co., and were consigned to Major Helms. I have already stated all I know about the kind, quality, and quantity of the goods; and if they were restored and delivered to the destined port, I don't know to whom they belonged. (The prize commissioner calls for the letter of instruction above referred to, and it is produced and marked Exhibit No. 1.—E. H. O.) I find, on looking at the letter, that I was mistaken in the name above given; it should be Charles J. Helm.

17. To the 17th interrogatory he says: I signed four bills of lading for the cargo on board of the vessel. The bills of lading were prepared by the broker and laid before me to sign, and I signed
176 them, and, as far as I know or believe, they were true bills, and not false or colorable. There were no bills signed different from these. I had no bill of lading on board of my vessel when I sailed, nor at any time before my capture. The bills of lading and manifest were to be forwarded to me at Cardenas. I did not read the bills of lading which I signed, and do not know their contents.

18. To the 18th interrogatory he says: I have already stated there were no bills of lading on board. There were no invoices on board. There were letters aboard, one of which I have already produced, and the other I have here with me. I had a letter from Isaacs & Campbell & Co. to the British consul at Havana, which was delivered up to the prize master, and also a letter from Samuel Isaacs, dated London, Nov. 19th, 1861, introducing me to Charles J. Helm, which I now produce, and it is marked by the prize commissioner "Exhibit No. 2.—E. H. O." This letter was delivered to
177 me the day I sailed from London. I also gave to the prize master my ship's log-book—official log-book; my desk, with all the papers therein, being my private papers and in no way relating to the vessel, and have not seen them since.

19. To the 19th interrogatory he says: I have already stated the

latitude and longitude of the place of capture, and the time when it was made. It was about 25 miles off Key West. I was standing to the southeastward at the time. There was no charter-party for the voyage.

20. To the 20th interrogatory he says: I have already stated all the papers which were aboard when the vessel left London and Erith. There were no papers by me burnt, torn, thrown overboard, destroyed, or cancelled, or attempted to be concealed, nor by any one on board by my orders, or to my knowledge or belief. I gave up all the papers to the prize masters, except the letters which I have produced on this examination. I did not know that I was bound to give them up.

21. To the 21st interrogatory he says: I did not know
178 that Key West was held in a state of blockade by the naval forces of the United States. I knew of the rebellion of the southern States, and that some of the southern ports were blockaded, but I was not near any particular port when taken. I think I was the nearest to Key West of any southern port.

22. To the 22d interrogatory he says: I cannot answer this question any further than I have already. No notice, in writing, had been endorsed the vessel's "register."

23. To the 23d interrogatory he says: The register was not endorsed by any naval or revenue officer of the United States before the capture; never boarded by any vessel.

24. To the 24th interrogatory he says: I do not know or believe that this vessel, at any time before I joined her, attempted covertly or secretly to enter or depart from any blockaded port without success. She never did under my command.

25. To the 25th interrogatory he says: The vessel has never before been seized as a prize, to my knowledge.

26. To the 26th interrogatory he says: I have sustained a loss
179 by the seizure. I lost some of my things while going from the schooner to the "Supply." I sail on wages. I get £15 a month, and allowed for finding, that is, provisioning my cabin. I received no indemnity for my loss.

27. To the 27th interrogatory he says: To the best of my knowledge the vessel is insured, and I think the cargo is also insured, but I cannot say for certain. The insurance, if any, was for this voyage. I do not know at what premium, nor who were the underwriters, nor where the insurance was made, but I suppose it was at London.

28. To the 28th interrogatory he says: Directly after my arrival at Cardenas I was to telegraph to Calmyac Brothers, Havana, who were to communicate with me, and, I suppose, tell me what to do with my cargo. I do not know to whom it would have belonged, and cannot answer this question any further.

29. To the 29th interrogatory he says: I suppose the cargo was English manufacture.

180 30. To the 30th interrogatory he says: Some of the cargo was taken on board from the quay, and some by lighters.

31. To the 31st interrogatory he says: The bills of lading must be

in some other place or country, and, I suppose, in Cardenas, for, as I have before stated, none were on board of my vessel. The manifest was also to be forwarded to Cardenas; none other that I know of. I saw the manifest and signed it before the collector at London, and have not seen it since I left it at the broker's office in London. Spegee and Haywood, of London, were the brokers. The manifest was in the usual form, and made from the bills of lading.

32. To the 32d interrogatory he says: There were no papers delivered out of or carried away from the vessel by any one except those which were delivered to the prize master upon the capture, or afterwards taken by Capt. Johnson, of the "Supply," upon my stating to him where they were. I have not seen any of those papers since.

181 33. To the 33d interrogatory he says: Bulk has not been broken. The hatches were broken off by the prize master to examine the cargo.

34. To the 34th interrogatory he says: There were no passengers aboard. There were no persons aboard besides the ship's company.

35. To the 35th interrogatory he says: All the papers found on board of the vessel were true, and none of them was false or colorable, and I know of no circumstance to affect their credit. I have not written or signed any letters or papers concerning the vessel or cargo.

36. To the 36th interrogatory he says: At the time the vessel was taken she was steering for "Cardenas," which is on the north side of the Island of Cuba, about 70 miles east of Havana. The course was not altered upon the appearance of the vessel. I had backed ship at one o'clock, and stood to the southward and eastward, and before that I had been standing to northward and eastward, making

182 easting. The course of the vessel was, at all times when the weather would permit, directed for Cardenas, as my log-book will show. At the time of the capture we were sailing about three points off our course, but as near as the wind would allow. I suppose Cardenas was about 82 miles distant, bearing southeast, and the schooner was heading south and by east.

37. To the 37th interrogatory he says: I do not know anything about the purchase or sale of the vessel, nor of the price paid, except that I heard that John M. Harris, before named, purchased her, and I heard from the broker that he paid £2.000 sterling for her. I have every reason to believe that if the vessel is restored it will belong to him.

38. To the 38th interrogatory he says: There were no guns mounted on board. I supposed that the boxes before mentioned, and marked "Long Enfields," contained guns. I do not think of anything else except the ball-cartridges which were taken

183 aboard at "Erith," as I have before stated. I saw cases marked "Belts." There was nothing else on board of the kind inquired of in this interrogatory, besides what I have stated, to my knowledge or belief. I signed bills of lading, weight and contents unknown. I cannot give the marks on the casks, boxes,

or bales beyond what I have already stated. I do not know that any of the before-named articles were intended for any fortress, garrison, or army purposes. I know of no law forbidding the exportation of those articles.

39. To the 39th interrogatory he says: I cannot state anything further in regard to the real and true property and destination of the vessel and cargo, except that, after I had discharged my cargo, I was to proceed to Sierra Leone, as stated in my letter of instructions, Exhibit No. 1. I wish to correct what I stated in my answer to the 35th interrogatory, by stating that, after the capture, and while on board of the "Supply," I drew up a memorandum of the
184 seizure of the vessel, &c., which I now produce, and it is marked "Exhibit No. 3.—E. H. O."

40. To the 40th interrogatory he says: The vessel never sailed under convoy, as I know of.

41. To the 41st interrogatory he says: I do not know that the schooner ever attempted to enter any port under blockade by the arms or forces of any belligerent power. She has not certainly since I have commanded her.

42. To the 42d interrogatory he says: She never, to my knowledge, sailed with a commission to act as privateer, or licensed as a privateer, or with letters of marque or reprisal.

43. To the 43d interrogatory he says: She never sailed or acted in company with any vessel in cruising against, pursuing, or seizing as prize any person, vessel, or property of citizens of the United States.

CHARLES N. DYETT.

185 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Edward H. Owen, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Charles Nathaniel Dyett, a witness produced on behalf of the captors, was taken by and under my direction at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that, before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined, separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or in my presence, and in the presence of the said witness, and under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this 15th day of Feb

[SEAL.] ruary, in the year of our Lord one thousand eight hundred and sixty-two.

E. H. OWEN,
U. S Prize Com'r.

186 *Exhibit No.* 1, *E. H. O., prize com'r, referred to in Capt. Dyett's deposition.*

71 JERMYN STREET, MILITARY WAREHOUSE,
(*Late* 21 *St. James st., London,*) *November* 19, 1861.

SIR: You will proceed as fast as it is possible from the port of London direct to Cardenas, Cuba, using every exertion to make a rapid voyage, and availing yourself of every opportunity to communicate with us during the voyage out, should any means occur for your so doing. On your arrival at Cardenas, you will report yourself to Charles J. Helm, esq., to whom you will consign yourself and vessel, and from whom you will receive all orders for your future actions, with reference to the schooner and cargo, and you will be pleased to implicitly obey all orders by Charles J. Helm, esq.

You will write us by every mail, keeping us advised of all your movements, and use the strictest economy in the expenses of sailing the vessel. Mr. Helm may require the schooner for use at *Havannah;* should he do so, you will at once make the best arrangements
187 for the immediate return to England of yourself and crew. Should, however, any wish to remain in the employ of Mr. Helm, we have no objection to his doing so. In case Mr. Helm has no use for the vessel, after discharging the cargo, you will receive full instructions from Messrs. Isaac, Campbell & Co., by mail leaving this on the 2d proximo, for proceeding to the west coast of Africa, the arrival of which you will await.

Enclosed you have letters for Charles J. Helm, esq., and Joseph Crawford, esq., H. B. Majesty's consul general at *Havannah*, which you will deliver without delay on arrival.

You will also, immediately on arrival at Cardenas, telegraph to Cahugac Brothers, *Havannah*, who will, on receipt of message, communicate with you.

Wishing you a speedy and prosperous voyage with confidence in your integrity and knowledge, we are, dear sir, yours, faithfully,

S. ISAAC, CAMPBELL & CO.

CAPTAIN DYETT,
Schooner "Stephen Hart."

188 *Exhibit No.* 2, *E. H. O., U. S. prize com'r.*

71 JERMYN STREET, LONDON,
November 19*th*, 1861.

DEAR SIR: As advised by my letter of the 16th inst., I have now the pleasure to again address you. The bearer of this is Captain Dyett, of the schooner "Stephen Hart," for whom I ask the favor of your good offices. Should he require assistance or advice during

his stay at *Havannah*, he will hand you his instructions from my house to read, and I feel assured you will in all matters find him a good man.

I am, dear sir, yours, very truly,

SAUL ISAAC.

CHARLES J. HELM, Esq.,
(*Care of J. Crawford, Esq.,*) *Havannah.*

189 *Ex. No. 3, E. H. O.*

WEDNESDAY, *29th Jan'y*, 1862.

At noon, when in lat. obs. 24° 12′ N., long. 82° 14′ W., Pta. de Ysacos bearing SE., distance about 82 miles, at 1 tacked ship to the S. eastward. The ship in company tacked immediately afterwards, and shortly afterward she again tacked, and fired a shot across our bows. I immediately ordered the British ensign to be hoisted; this was done; she again fired the second shot and hoisted the American flag; I shortened sail and hove to; the third shot was fired just clear of the schooner; I ran down under the ship's stern about half mile distance; I was hailed, and told he would send a boat alongside; the boat boarded us; boat's crew armed; my papers were demanded by the officer in command, which were shown him, with my clearance from the customs of London; he ordered the hatches to be opened and searched; he left the schooner and went to the ship; he shortly returned and said the captain wished to see me and the mate on board the ship; I protested against the mate's leaving the schooner with me, as I must leave some one in charge; the officer proposed to leave the boatswain; this I objected to; the officer then
190 said, we will take care of her; finding I was compelled to leave the schooner, I left in the ship-boat with all the necessary papers, &c.; the ship proved to be the American storeship "Supply," Colvocoresses; I was told to go in the cabin to see the captain; I was asked several questions about the voyage, which was faithfully answered; he then said he must detain me and take me to New York. Mr. Chadwick, mate, was sent to Capt. Colvocoresses, in the cabin; he was also detained. The boatswain was sent for from on board the schooner, but after a short time he was sent on board the schooner; I was allowed to go on board and take a part of my wearing apparel, all my papers, desk, &c., in charge of the capt.; I was then placed in the ward-room mess.

THURSDAY, *30th Jan'y*, 1862, *p. m.*

The boat left ship "Supply" for the schooner. I applied to Capt. Colvocoresses for the small stores, which are for my use on board the schooner, to be brought for use in the ward-room mess, the mess not being provided the same quality of stores as I had been accustomed to. This was refused. I was allowed to take one dozen wine, one gallon brandy, and one dozen beer; the remainder of the stores was
191 left on board the schooner for the use of the officers in charge.

FRIDAY, 31*st Jan'y*, 1862.

At about noon I was told that Capt. Colvocoresses wished to see me in the cabin; I therefore waited on him; he read over several passages of law, as he gave me to understand, at the same time saying if I had any papers to give them up, or to say where I was bound to with the schooner. I told him I had nothing to hide or disguise; I was on a legal voyage to Cardenas, Cuba, which he would find by my custom-house clearance; more than that, he would find a customs stamp note on board the schooner before we took in the cargo, which was customary to the rules of the custom-house, London.

SATURDAY, 1*st Feb'y*, 1862.

At 9 a. m., knowing the mate had not written up the log of the schooner "Stephen Hart," I applied to Capt. Colvocoresses to allow the Mr. Chadwick, mate, to write up the log, the log-book being in his charge. This he positively denied. Capt. Blakely was present at the time.

192 District court of the United States for the southern district of New York.

Deposition of Benjamin H. Chadwick, 1st mate, a witness produced, sworn, and examined, *in preparatorio*, on the 13 day of February, in the year eighteen hundred and sixty-two, at the office of the U. S. prize commissioners, 39 Chamber street, on the standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination, by E. Delafield Smith, esq., U. S. district att'y, in behalf of the captors of a certain ship or vessel called the "Stephen Hart."

1. To the 1st interrogatory he says: I was born in the State of Maine, town of Bruru. My wife lives in Chelsea, Mass. I have lived in Boston and Baltimore. I have no permanent place of abode. I am a citizen of the United States. I owe allegiance to the United States. I am married.

193 2. To the 2d interrogatory he says: I was present at the capture of the vessel in question.

3. To the 3d interrogatory he says: The seizure was made between Cuba and Key West, near the coast of Florida. I do not know what distance from the coast. We were carried to New York city. She had no commission authorizing her to make prizes. I do not know why we were seized.

4. To the 4th interrogatory he says: We sailed under English colors; we had the confederate flag on board; no other national flag. We cut up the American flag to make a burgee of it, or a part of it. The confederate flag was on board the vessel when I went on board; I do not know why.

5. To the 5th interrogatory he says: There was no resistance made; but the captain objected to going on board the capturing vessel without leaving some one in charge. There were three guns fired

by the capturing vessel. The 1st gun we hoisted the English flag. The second gun we hauled down the flying jib and hove the vessel
194 to. On the 3d gun we kept away, and were driven under the lee of the capturing vessel. There was no other man-of-war in sight. Our vessel is a merchantman; the capturing vessel is an American storeship, called the "Supply." She carries four guns.

6. To the 6th interrogatory he says: I do not know whether the capturing vessel had any commission or not. The capturing vessel was the U. S. ship "Supply," Capt. Colvocoresses. The "Stephen Hart" has not been condemned.

7. To the 7th interrogatory he says: The name of the captured vessel is the "Stephen Hart," Capt. Dyett. He was appointed to the command by Mr. Harris, the owner, I suppose; but I was not present when he was appointed. He was appointed in London. I have known the vessel since June last; the captain about 3 months. He took possession of her in London, about the 15th of November last. I don't know who delivered her to him. His place of abode is London, and that of his wife and family. I don't know how long he has lived there, nor where he was born. He is a subject of England.

195 8. To the 8th interrogatory he says: The "Stephen Hart" is about 219 tons, English measurement. Her company, when taken, was ten, all told; and all on board were taken. I do not know what countrymen they are. All came on board at London, at the same time, or about the same time, except one, who came on board at the Downs; they were shipped under the English regulations, all but myself; I was hired by Capt. Dyett.

9. To the 9th interrogatory he says: I did belong to the captured vessel; I was first mate. We had none of us any interest in the vessel or cargo, so far as I know.

10. To the 10th interrogatory he says: I have known the vessel since June last. I first saw her in June last, in New Orleans. She carried no guns. There were ten men on board when we were captured. She is American build; her name Stephen Hart, and has been so called about 3½ or four months; she was called the Tamaulipas before that, and has had no other name, to my knowledge.

11. To the 11th interrogatory he says: We were bound to
196 Cardenas, Cuba. The voyage began at London, and was to have ended in England. She carried the same lading when she sailed from London as she had now on board. The packages are marked belts—fags—Enfield rifles. There are barrels marked cannon, which I have been told is powder. I suppose she is loaded with powder and munitions of war. It was put on board in November last.

12. To the 12th interrogatory he says: She had no passport or sea brief, to my knowledge. Her previous voyage commenced at Cuba. We went from Matanzas to England, and touched at Halifax. I joined her in June, at New Orleans, and went from there to Cuba, and from there to England, and from there we were again on our way to Cuba. We carried spirits of turpentine, lard, and passengers from New Or-

leans to Cuba; from there we carried sugar to England. She sailed from her last clearing port, London, on the 19th day of November last.

13. To the 13th interrogatory deponent says: I have already described her lading, ever since I have known her, so far as I
197 know it. The present cargo was put on board in November last. I cannot describe the cargo at all; neither quantity nor the articles.

14. To the 14th interrogatory he says: Mr. Harris, of Liverpool, was the owner of the vessel; and Isaacs, Campbell & Co., of London, I suppose, are the owners of the cargo. Captain Acley, her former master, told me that he sold her to Mr. Harris. I sailed with Capt. Acley, the previous voyage, from New Orleans to England via Cuba. I heard in London that Isaacs, Campbell & Co. owned the cargo. So far as I know, they are all Englishmen. I know no particulars about their places of residence.

15. To the 15th interrogatory he says: I do not know anything about any bill of sale of the vessel at any time.

16. To the 16th interrogatory he says: Her cargo was put on board in London, in November last. I have told all I know about the lading or owners; I have told all I know in reply to this interrogatory.

17. To the 17th interrogatory he says: I don't know any-
198 thing about any bill of lading; I heard the captain say he signed bills of lading.

18. To the 18th interrogatory he says: I know nothing about any of the papers or letters on board the vessel when taken. I have seen a stamped note on board. I had private letters from my wife and friends, which I gave to the cook to take care of, and he gave them up to some of the capturing officers. I have seen the ordinary ship's papers—the register, and other papers. I saw them in the captain's hands.

19. To the 19th interrogatory he says: We were captured about 24° 12′ north latitude—I do not remember the longitude—on the 29 day of January last, at about 1 o'cl'k p. m.; the nearest port was Key West, to the best of my knowledge, off the coast of Florida. I do not know of any charter party.

20. To the 20th interrogatory he says: I know of no papers except what were on board when we were taken; none were burnt, torn, or destroyed, to my knowledge. I gave my private letters to the cook to take care of.

21. To the 21st interrogatory he says: I know nothing about
199 the blockade except what I read in the newspapers. I do not know whether the owners knew anything about the blockade; I do not know that captain knew about the blockade.

22. To the 22d interrogatory he says: I do not know anything in reply to this interrogatory.

23. To the 23d interrogatory he says: The register was not examined by any officer of the United States before she was captured and taken, except on the former voyage; her papers were examined by the U. S. S. Powhatan.

24. To the 24th interrogatory he says: We came out of New Orleans after the blockade, but had proper authority for doing so; that was in June last. We were boarded on our way out of New Orleans, by an American man-of-war. I was told it was the Powhatan, and were allowed to proceed.

25. To the 25th interrogatory he says: She had never been seized as prize until now, to my knowledge.

26. To the 26th interrogatory he says: I have sustained no loss unless I lose my wages.

200 27. To the 27th interrogatory he says: I know nothing about any insurance; I heard the captain say she was insured for two thousand pounds; I never heard that the cargo was insured.

28. To the 28th interrogatory he says: I do not know whose property the cargo would have been had it arrived at its destined port.

29. To the 29th interrogatory he says: The cargo was English manufacture.

30. To the 30th interrogatory he says: It was loaded partly from the key, at London; partly from lighters; the vessel was lying at the key, in the port of London.

31. To the 31st interrogatory he says: I do not know anything in reply to this inquiry.

32. To the 32d interrogatory he says: I know of no papers of any kind having been taken out of the vessel, except by the captors.

33. To the 33d interrogatory he says: Bulk was not broken during voyage.

34. To the 34th interrogatory he says: There were no persons of any kind on board except the ship's crew of ten persons.

201 35. To the 35th interrogatory he says: I don't know anything about the papers of any kind, except the ship's papers, which have been delivered to the captors.

36. To the 36th interrogatory he says: We were steering for Cardenas when first seen; her course was not altered after the appearance of the captor; her course was at all times, when the weather would permit, directed to Cardenas; the captain said we were 82 miles southeast, or about that, of Cardenas.

37. To the 37th interrogatory he says: The vessel has been sold, as far as I know, to an English owner, Rich'd Allen, residing in New Orleans, in May last, or about that, and I understand he gave a power of attorney to Captain Acley, then in his employ, to sell the vessel; she was then sold to Mr. Harris, of Liverpool; I heard she was sold for £2,000; Captain Acley told me he got his money on the draft for it; I suppose the sale was truly made; I have every reason to believe so; I believe she will belong to Mr. Harris if restored.

202 38. To the 38th interrogatory he says: There were no guns mounted on board; there were no arms, except small arms; only one revolver; and no warlike arms, except as already described; her cargo, I have already said, was supposed by me to be arms and munitions of war.

39. To the 39th interrogatory he says: I understood by the cap-

tain and the articles that we were bound to Cardenas, and from there to Sierra Leone, and I knew nothing beyond that.

40. To the 40th interrogatory he says: She never sailed under the convoy of any ship-of-war, to my knowledge, prior to her capture.

41. To the 41st interrogatory he says: She never, to my knowledge, sailed to or attempted to sail from or enter any port under blockade.

42. To the 42d interrogatory he says: She never carried any commission as privateer or letter of marque, to my knowledge.

43. To the 43d interrogatory he says: I do not know anything about this inquiry.

B. H. CHADWICK,
First Mate.

Subscribed and sworn to before me this 13th day of Feb., 1862.
HENRY H. ELLIOTT,
U. S. Prize Com'r.

203 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners, appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Benj'n H. Chadwick, first mate, a witness produced on behalf of the captors, was taken by and under my direction at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that, before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined, separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this 13th day of
[SEAL.] Feb'y, in the year of our Lord one thousand eight hundred and sixty-two.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

204 District court of the United States for the southern district of New York.

Deposition of John Leisk, a witness produced, sworn and examined *in preparatorio*, on the thirteenth day of February, in the year eighteen hundred and sixty-two, at the office of the U. S. prize commissioners, at 39 Chambers st., on the standing interrogatories established by the district court of the United States for the southern district of New York, the said witness having been pro-

duced for the purpose of such examination, by E. Delafield Smith, esq., U. S. district attorney, in behalf of the captors of a certain ship or vessel, called the schooner "Stephen Hart."

1. To the 1st interrogatory witness says: I was born in Hull, Yorkshire, England; I have no stated residence; I am a subject of Great Britain, and owe my allegiance to her; I am not a citizen of the United States of America; I am not married.

205 2. To the 2d interrogatory he says: I was present at the capture of the schooner "Stephen Hart."

3. To the 3d interrogatory he says: The seizure was made some distance from Cardenas—I don't know the distance—and was brought to New York city; she had no commission authorizing her to make prizes, that I am aware of; the seizure was made, thinking she was going to run the blockade, and by her cargo being ammunition and arms and soldiers' effects.

4. To the 4th interrogatory he says: She sailed under the English flag; she had an American flag on board, and another flag that looked similar to the American flag; I do not know why she had these additional flags.

5. To the 5th interrogatory he says: There was no resistance made to the capture; there were two guns fired by the capturing vessel, as I recollect; the capture was made by the U. S. ship "Supply;" there were no vessels in sight at the time of the capture, that I am aware of; the vessel captured was a merchant vessel; the capturing vessel is an American man-of-war, called the Supply, and carries four guns.

206 6. To the 6th interrogatory he says: I believe she is commissioned to take any vessel that she believes suspicious. The capture was made by the "Supply," by orders from the captain of the "Supply." Has not been condemned.

7. To the 7th interrogatory he says: The name of the vessel taken is "Stephen Hart." The captain is Dyett. I do not know who appointed him to the command. He was appointed in London to take command. I have known the vessel since the 17th of November last, and the capt. since 16th of November last. He took possession of her in London, but do not know who delivered the same to him. I do not know where his fixed place of abode is. I do not know where his last place of residence was. I do not know where he was born. I have heard that he belongs to Barbadoes, an island belonging to Great Britain, but am not certain.

8. To the 8th interrogatory he says: I do not know the tonnage of the captured vessel. There were ten of a crew belonging to the vessel captured—that is all that were on board of her at the time of the capture. They are of different nations. They all came

207 on board at the same port and time, except the captain and mate, in London. The captain came on board at Gravesend. The mate was on board all the time; this was on the 18th of November last in London. The captain shipped and hired all the crew in London.

9. To the 9th interrogatory he says: I belonged to the company of the captured ship, and was employed as cook and steward. I had no interest in the vessel or cargo, and, to the best of my information, none of the rest had.

10. To the 10th interrogatory he says: I have known the said vessel since the 17th of November last. I first saw her in London, on the 17th of November last. She carried no guns. There were ten men on board of her at the time she was captured. She is American built; her name is the "Stephen Hart." I do not know how long she has been so called; she was first called the Tamaulipas.

11. To the 11th interrogatory he says: The captured vessel was bound to Cardenas, Cuba, and Sierra Leone, Africa. She first sailed
from London, and was to have ended in any port of Great
208 Britain. Her lading consisted, when she first sailed, of powder, arms, and soldiers' equipments, and had the same articles on board when she was captured. She took the powder and part of the army on board after I joined her in November, 1861. I knew she had on board goods contraband of war, to wit, arms, powder, and soldiers' equipments.

12. To the 12th interrogatory he says: She had her clearance from the custom-house, London. She had not arrived at any port before she was taken. The voyage began in London, and was to have ended in any port of Great Britain. I do not know what kind of cargoes she has carried before. She last cleared from Gravesend, where she took the last of her cargo, the 20th or 21st of November, 1861.

13. To the 13th interrogatory he says: I have already described the cargo she had when she sailed; it was put on board in November last. I have already named the different articles she had on board, but do not know the quantity.

14. To the 14th interrogatory he says: I do not know who the owners of the vessel and cargo were at the time when captured.

15. To the 15th interrogatory he says: I do not know any-
209 thing about any bill of sale of the said vessel at any time.

16. To the 16th interrogatory he says: The cargo was put on board in London, in November last. I do not know who the owners were. This is all I know in answer to this interrogatory.

17. To the 17th interrogatory he says: I do not know anything in relation to this interrogatory.

18. To the 18th interrogatory he says: I do not know anything in relation to this interrogatory.

19. To the 19th interrogatory he says: I do not know in what latitude or longitude the vessel was in when she was captured. The seizure was made 29th January, 1862, on the Atlantic ocean. That is all I know in answer to this interrogatory.

20. To the 20th interrogatory he says: The only papers that I know of was the clearance she got in London. I do not know anything further in answer to this interrogatory.

21. To the 21st interrogatory he says: I understood the
210 southern coast of the United States was under blockade, but did not know Cardenas was.

22. To the 22d interrogatory he says: I do not know in relation to this interrogatory.

23. To the 23d interrogatory he says: All the papers that were on board the vessel at the time she was captured, the captain of the Stephen Hart took on board the "Supply," to show her captain, to the best of my knowledge. That is all I know in answer to this interrogatory.

24. To the 24th interrogatory he says: I do not know anything in relation to this interrogatory.

25. To the 25th interrogatory he says: I do not know anything in relation to this interrogatory.

26. To the 26th interrogatory he says: I have not sustained any loss by the seizure.

27. To the 27th interrogatory he says: I do not know anything in relation to this interrogatory.

28. To the 28th interrogatory he says: I do not know anything in relation to this interrogatory.

29. To the 29th interrogatory he says: I do not know anything in relation to this question.

211 To the 30th interrogatory he says: The cargo was put on board partly from the quay; the powder from small vessels in the river.

31. To the 31st interrogatory he says: I do not know anything about *about* any papers of any kind.

32. To the 32d interrogatory he says: No papers were carried away from the vessel in any way, or by any one, except at the time of the capture. I had some papers belonging to the mate which I put in the teapot. They were found by the officer when he searched for them. I told him where to look for them. They were put there by order of the mate to keep out of sight.

33. To the 33d interrogatory he says: Bulk was not broken.

34. To the 34th interrogatory he says: There were no persons of any kind on board except the crew.

35. To the 35th interrogatory he says: I do not know anything about any papers of any kind.

36. To the 36th interrogatory he says: I do not know any-
212 thing about the steering of the vessel at any time. I have no knowledge of navigation.

37. To the 37th interrogatory he says: I do not know anything about any sale of the vessel at any time.

38. To the 38th interrogatory he says: There were no guns mounted, and no arms or ammunition except one pistol, and the cargo as described by me. The entire cargo was warlike munitions.

39. To the 39th interrogatory he says: I know nothing about the destination of the vessel and cargo, except that we were bound to Cardenas.

40. To the 40th interrogatory he says: We never sailed under convoy, to my knowledge.

41. To the 41st interrogatory he says: I have heard that she has run the blockade before, but I do not know what place. I got this

from the mate's conversation in my presence. I have overheard him say this.

42. To the 42d interrogatory he says: I do not know of her having carried any license as privateer or letter of marque.

213 43. To the 43d interrogatory he says: I never heard of her sailing in company with any armed vessel at any time.

JOHN LEISK.

Subscribed and sworn to this 13th day of Feb'y, 1862, before me.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

NEW YORK, *Feb'y* 25, 1862.

On an order of the court of this date, on the notice of the district attorney for the re-examination of John Leisk, on the 32d interrogatory, deponent this day appeared before me, and on putting to him anew the 32d interrogatory, he answered as follows: In addition to what I have hereto said, I reply, there were some papers given to me by the captain of the schooner "Stephen Hart," on the evening of the day we were captured, which he had put at the foot of his berth. He told me, if he sent for these papers I should know where to find them. He then went on board the "Supply." When he re-

214 turned, I asked him if he wanted those papers? He said, we have already got them. This conversation was between us, there being no other person within hearing. We were in his stateroom at the time, with the door closed. The papers which I received from the first officer, as already stated in my former examination, and which I put into the teapot by his orders, were found by Captain Johnson, the boarding officer of the "Supply," when he was searching for papers. When the first officer handed me those papers, he seemed anxious and uneasy, and when he returned to the schooner to get his clothes, the first thing he said to me was, have you those papers? I told him they were found by the officer. He then said, "Why in hell did you not destroy them?" And likewise, "By God, I am done."

JOHN LEISK.

Subscribed and sworn to this 25th day of Feb'y, 1862, before me.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

215 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners, appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of John Leisk, steward, a witness produced on behalf of the captors, was taken by and under my direction at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogato-

ries;" that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed seal at the city of New York, 12 day of Feb'y, in the year of
[SEAL.] our Lord one thousand eight hundred and sixty-two.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

216 District court of the United States, for the southern district of New York.

Deposition of Charles Nellmann, (second mate,) a witness produced, sworn, and examined *in preparatorio*, on the 15th day of February, in the year eighteen hundred and sixty-two, at the office of E. H. Owen, esq., U. S. prize commissioner, No. 72 Wall street, in the city of New York, on the standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination by E. Delafield Smith, esq., U. S. district attorney for the southern district of New York, in behalf of the captors of a certain ship or vessel called the "Stephen Hart," and her cargo.

1. To the 1st interrogatory he says: I was born in Orkney island, and now live in London, and have lived there for the last ten years when on shore. I am not a citizen of the United States, but am a subject of Great Britain, and owe allegiance to that power. I am not a married man.

2. To the 2d interrogatory he says: I was present and on board the "Stephen Hart" at the time of her capture.

217 3. To the 3d interrogatory he says: The capture was made on or about the 27th January, 1862, in the Gulf stream, about 30 miles S.SW. of Key West, and was brought into the port of New York. Our vessel had no commission to make prizes. The only reason for her capture was, as I heard, because she had warlike stores on board, and also that she had not sufficient papers.

4. To the 4th interrogatory he says: Our vessel sailed under British colors. She had an American ensign, which was cut up on the voyage to make a burgee of; also a flag of the confederate States of America. The vessel originally belonged to citizens of the southern States, and the confederate flag was left on board after the sale to the present owner. I last saw it a few days before our capture; I cannot remember how many days. I saw it then in the sail cabin, where sails are kept in a bag, along with the burgee I have before spoken of. I don't know for what purpose this flag was kept on board, nor what became of it. It has not been destroyed. The day

we were captured I found the burgee in the main cabin on the
218 floor, and I looked for the confederate flag, but I could not find it. I made a thorough search for it, but without success.

5. To the 5th interrogatory he says: No resistance was made at the time of the capture. The U. S. war ship "Supply" was the capturing vessel. She fired three guns; one ball or shell crossed our bows; one went aft of us; and the other I did not notice, but I heard the report of the gun. Our vessel was a merchantman, and a Mr. Harris, of Bristol, England, was her owner; I don't know his first name. The capturing vessel was a man-of-war, carrying four 32-pounders.

6. To the 6th interrogatory he says: I think the "Supply" had a commission to act in our capture, from the United States government. Our vessel has never been condemned as a prize as yet.

7. To the 7th interrogatory he says: The name of our vessel was the "Stephen Hart," and her master's name was Charles N. Dyett; Mr. Harris appointed him to the command, as I believe, at London. I have known the vessel since the 16th November, 1861, and I have known the captain for the same time. He took possession in London,
but I don't know when, as he was on board when I joined the
219 vessel. The possession was given him by the owner, Mr. Harris. The master lives in London. I don't know whether he is married, nor how long he has lived there. He was born in Trinidad, West Indies. He is a subject of Great Britain.

8. To the 8th interrogatory he says: The tonnage of our vessel is two hundred and nineteen, English measurement. The number of our company, all told, officers and crew, was ten, and they were all actually on board when she was taken. Some were English, some French, and some Swedes. All but one were shipped at London, on the 16th November, 1861, and that one, a seaman, was shipped at Deal, in England, about 28th November, 1861. The master shipped them.

9. To the 9th interrogatory he says: I belonged to the vessel's company, and was the second mate. I had not, nor had the master, or any of the crew, any interest, of any description, in either vessel or cargo. I don't know whether the first mate had any interest therein.

10. To the 10th interrogatory he says: I have known the vessel since 16th November, 1861. I first saw her then in Surrey canal, a
dock in London. She carried no guns. There were 10 men
220 on board, as I before stated, when she was captured. She is an American-built vessel. Her name was the "Stephen Hart," and has been so called ever since I have known her. I have heard that she was formerly called the "Tamaulipas," but I never heard of any other name.

11. To the 11th interrogatory he says: The ports or places to which our vessel was bound, when we were captured, was Cuba, Sierra Leone, or to West Indies, or some port in North or South America. I don't know to which of these several ports or places we were bound first. The voyage began at London and was to have ended there. She carried a cargo of Enfield rifles, powder, cartridges,

shot, shells, soldiers' accoutrements—such as knapsacks, belts, pouches. There were some heavy boxes on board which, I think, contained small cannon. The lading consisted entirely of warlike stores and articles. These were all on board when we were taken. They were all put on board in November, 1861. I think these goods are contraband of war.

12. To the 12th interrogatory he says: I don't know whether or not our vessel had any passport or sea-brief on board. She had not touched at any port before she was taken on that voyage. Her last voyage began at London, and was to have ended there. I don't know what cargoes the vessel has carried previous to my joining her, nor at what ports they were delivered. Her last clearing port
221 was London. I think, from what I have heard the first mate, Mr. Chadwick, say, who has known her for a long time, and came to England in her, that the vessel has carried confederate troops on board on several voyages or trips between ports and places in the southern States.

13. To the 13th interrogatory he says: I have already mentioned what lading we had on board on leaving London, and that it was the same lading we had on board at the time of our capture. It was put on board in November, 1861. I have given the species of the lading as well as I can remember, but I don't know the quantities thereof.

14. To the 14th interrogatory he says: Mr. Harris, whom I have already mentioned, was the owner of the vessel. I have heard the master say he was such owner. He lives at Bristol, England, and is a subject of Great Britain, as I believe. I don't know how long he has resided there, nor anything further concerning him. I believe the cargo on board is owned in the Confederate States of America. I heard Mr. Chadwick, our first mate, say so. I don't know the name of the owner or owners, nor where they live. I never heard anything further concerning the cargo and the owners thereof, except that Mr. Chadwick told me that the cargo was going to some place in the Confederate States. He professed to know all about it.

15. To the 15th interrogatory he says: I have no knowledge
222 nor any information concerning any of the matters herein inquired of.

16. To the 16th interrogatory he says: I have already stated when and where the lading inquired of was put on board. Mr. Hughes, who, I believe, is an agent for the Confederate States, put the cargo on board, and was the lader thereof. He seemed to be the principal man, and had the most to say about the vessel and cargo. I don't know his first name, nor of what country he is a subject, nor where he resided before living at London. The goods were to be delivered in the southern States, at some port therein, I think, for the account or benefit of some persons in those States whom I don't know. I fully believe, from what I have heard on board our vessel, that our cargo was destined for some port in the southern States, either to be carried there in our vessel, or to be transhipped and put in another vessel for the same purpose.

17. To the 17th interrogatory he says: I never saw any bills of

lading, and don't know how many were signed, nor anything concerning them.

18. To the 18th interrogatory he says: I have not had any papers or writings, whatever, showing any interest of any person in either vessel or cargo. I never saw any papers of the kind inquired of on board our vessel. I have never been informed of any such papers. I think the master had a letter with him directed to some one. I don't know to whom it was directed, nor where it was to be
223 delivered. I never saw it, but I heard the master and first mate talk about it an half hour or so before we were captured; just when the first shot was fired. I don't know what became of the letter.

19. To the 19th interrogatory he says: Our vessel was captured in about 24° north latitude, and about 81° west longitude, on the 29th January, 1862, at about 2 o'clock in the afternoon, about 30 miles S.SW. of Key West, off the coast of Florida. I don't know whether any charter-party was signed for this voyage.

20. To the 20th interrogatory he says: The only papers on board the vessel at the time of leaving London were the ship's register, a clearance, shipping articles, and the letter in the master's possession, before spoken of. I presume there were other papers on board, but I know of no others. No papers were destroyed, to my knowledge. The first mate, a few minutes before our capture, gave some papers to the cook, with directions to put them in a teapot in the galley, for the purpose of concealing them, but they were found by the U. S. officers.

21. To the 21st interrogatory he says: We all on board knew that the southern States, including Florida, were in a state of war with the United States, and the southern ports blockaded by the United States navy. I presume the owner knew it. I had personal knowledge of these facts about six months before I joined the ves-
224 sel. It was a matter of conversation on board during the voyage.

22. To the 22d interrogatory he says: Key West was not under an order of blockade, but the other ports of Florida were. We received no warning notice of the blockade of the southern ports during our voyage. We hailed several vessels, but only inquired as to our longitude. Nothing was said about the war or blockade. I know we were not hailed or boarded by any U. S. war vessel previous to capture, and I do not think our register was ever indorsed by any one as to any blockade whatever.

23. To the 23d interrogatory he says: Our register, before capture was not examined, nor shown to any U. S. officer at any time.

24. To the 24th interrogatory he says: I do not think our vessel was, on the voyage when captured, attempting to enter any southern port. I have heard from the first mate, before spoken of, that she ran the blockade of New Orleans, at the time the U. S. vessel "Brooklyn" was there, with success. He was on board at the time. I think our vessel was, in reality, bound for Cuba, on this last voyage, and that after arriving there, she would have received instructions

as to what particular port or place she shoud go in the southern States, or as to whether the cargo should be transhipped and put on board another vessel. The first mate told me that a steamer would receive our cargo at Cuba, very probably, and would carry it thence to some southern port.

225 52. To the 25th interrogatory he says: Our vessel has not been condemned, and the present is the only instance of seizure.

26. To the 26th interrogatory he says: I shall probably lose my wages for the voyage round, and that is my only loss. I have received no satisfaction for the same.

27. To the 27th interrogatory he says: The vessel was insured at Lloyds, in London, but I do not know to what amount. I do not think the cargo was insured. The insurance was made for the last voyage. I do not know by whom the vessel was insured, nor the premium therefor.

28. To the 28th interrogatory he says: I am unable to answer this question any further than I have already stated the facts to be.

29. To the 29th interrogatory he says: The whole cargo is English manufacture.

30. To the 30th interrogatory he says: The powder was taken on board from lighters in London river, above Gravesend, in November, 1861, after the rest of the cargo had been taken on board, and just previous to sailing on the voyage. The rest of the cargo was taken from the dock, and partly from lighters in the Surrey canal. The powder was taken in out in the river, because the government forbids any to be put on board vessels at the docks of London.

31. To the 31st interrogatory he says: I have no knowledge nor any information or belief concerning any of the matters herein inquired of.

32. To the 32d interrogatory, he says: The vessel's papers

226 were delivered out of our vessel to the officer of the ship "Supply," by the master of our vessel, at the time of our capture. The name of the officer of the "Supply" was F. W. Johnson. I do not know where the papers now are.

33. To the 33d interrogatory he says: Bulk was not broken during the voyage, before our capture nor since, to my knowledge.

34. To the 34th interrogatory he says: No passengers were on board our vessel. No persons were concealed on board. The persons before spoken of, who composed the vessel's company, were the only persons on board. I do not know positively, but I think the first mate, Chadwick, was a southerner.

35. To the 35th interrogatory he says: I have no knowledge nor any information concerning any of the matters herein inquired of.

36. To the 36th interrogatory he says: At the time of our capture our vessel was steering her course towards Havana, but we were obliged to head that way on account of the head winds, in order to pursue our course to Cardenas. We first saw the "Supply" about 6 o'clock in the morning of the 29th January, 1861, about three or four miles to leeward of us. We were standing then towards Key West. We continued on that course, however, until about 12

o'clock, when we tacked ship and steered towards Havana. The "Supply" gradually gained on us, and when we tacked ship she was standing on a course opposite to ours on the wind, and we
228 crossed her bows about a mile to windward. The "Supply" then fired a gun, when we hoisted the British flag. He then tacked ship and stood on the same tack with us, and fired another gun across our bows. We then slacked off our jib sheet and head sheet, and hove to. He then fired another gun, when we ran down to leeward so as to find out what he wanted. He hailed us and sent a boat to us, and were then taken as a prize. Our course, at all times when the weather permitted, was towards Cardenas, except in the instances above mentioned. We could not steer a direct course towards Cardenas on account of the head winds, and we may have been a little wide of Cardenas. I had the watch when the "Supply" was first seen. The first mate had the watch from 8 to 12 o'c., and I from 12 to 4 o'clock. I cannot state the distance to Cardenas without a chart or book.

37. To the 37th interrogatory he says: I understood from Mr. Chadwick, our first mate, that the vessel was lying among some confederate craft at Bristol, when Mr. Harris saw her, and thereupon purchased her from Capt. Hackley or Ackley for £2,200 sterling, at Bristol. It was some time in the latter part of the year 1861. I think that is her true value. I believe Captain Hackley is a southerner. I know nothing further concerning the sale.

229 38. To the 38th interrogatory he says: No guns were mounted on board our vessel, and no arms or ammunition belonged to her. I have already stated, to the best of my knowledge and belief, what particular cargo she had on board. None of the cargo was thrown overboard. I do not know whether or not any of the lading was, in any way, concealed under the name of merchandise or otherwise. I have heard of no law forbidding the exportation of the articles enumerated by private persons without a license. The cargo was not put on board by any public authority, unless it was by an agent for the confederate government.

39. To the 39th interrogatory he says: I have stated all that I know, to the best of my knowledge and belief, concerning the real and true property and destination of the vessel and cargo.

40. To the 40th interrogatory he says: We never sailed under convoy of any ship-of-war at any time since I have been attached to the vessel. I had no directions to escape capture at any time.

41. To the 41st interrogatory he says: I have no knowledge nor any information concerning the matters herein inquired of.

42. To the 42d interrogatory he says: We never, since I have been attached to the vessel, carried any license as a privateer or letter of marque or otherwise. I never heard that she did.

230 43. To the 43d interrogatory he says: We never sailed or acted in company or concert with any armed vessel or vessels at any time, to my knowledge, for any purpose whatever.

CHARLES NELLMANN.

231 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Edward H. Owen, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Charles Nellmann, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath, directed by the 17th prize rule, was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this 15th day of February, in the year of our Lord one thousand eight hundred and sixty-two.

E. H. OWEN,
U. S. Prize Com'r.

232 District court of the United States for the southern district of New York.

Deposition of Robert Allen, "able seaman," a witness produced, sworn, and examined in preparatorio, on the 17th day of Feb'y, in the year eighteen hundred and sixty-two, at the office of the U. S. prize commissioners, 39 Chambers street, on the standing interrogatories established by the district court of the United States for the southern district of New York, the said witness having been produced for the purpose of such examination by E. Delafield Smith, esq., U. S. district attorney, in behalf of the captors of a certain ship or vessel called the Stephen Hart.

1. To the 1st interrogatory he says: I was born in Scotland. I live there still when I am at home, and have lived there all my life, except when at sea. My native town is Clackmannan, of the same county. I am a subject of the British crown, and owe allegiance thereto. I am not married.

2. To the 2d interrogatory he says: I was present at the capture of the "Stephen Hart."

3. To the 3d interrogatory he says: The capture was made
233 on the 29th day of January prox'o, about 2 o'clock p. m., near Key West, on the coast of Florida, about 30 miles south-southwest of Key West; we were brought to this city of New York, where we now are; I do not know what commission the captor had, but she was one of the United States storeships, called the "Supply;" we were seized because our papers were said by the boarding

officer from the "Supply" not to be correct, and because our cargo was very suspicious in a time of war, there being no manifest or bill of lading, and the ship so near the coast of the enemy; we were about 45 miles from the coast of the enemy, or the rebel coast.

4. To the 4th interrogatory he says: We sailed under English colors; we had the American colors aboard; we had another flag, with stripes and stars, but not as many stars as the old American flag; I do not know whether this was the confederate flag or not, as I never saw one to know it, unless this was one.

5. To the 5th interrogatory he says: There was no resistance made, there were 3 shots fired by the "Supply;" after the 2d shot was fired the captain said he thought this was for us to heave to, which we did; they then fired a 3d shot and ran up the American en-
234 sign; we then made sail, and ran down under the stern of the "Supply;" the capture was made by the Supply, Commander Colvocoresses; our vessel was a merchantman.

6. To the 6th interrogatory he says: I do not know anything about the commission of the capturing vessel; she has not been condemned, to my knowledge.

7. To the 7th interrogatory he says: The name of our vessel is the "Stephen Hart," Captain Dyett; I do not know who appointed him; I have known the vessel since the 28th day of November last, when I joined her; I never saw the captain until a few days before I joined her; I saw him then in London; he says his place of abode is London; his family reside there; I am told he was born in Trinidad; I think he is a subject of Great Britain.

8. To the 8th interrogatory he says: Our tonnage is 217 tons, English measurement; the company, all told, was ten; they were all shipped in London, except the mate and me; all at the same time; all were on board when taken; they are different countrymen—three are Swedes, one North American; the mate says he is a North American; I think all the rest are British subjects; the crew all went on board at the same time, in London, except me; I went
235 on board in Deal harbor; they were shipped by a shipping master in London; I was shipped by the captain.

9. To the 9th interrogatory he says: I did belong to the crew, and was a seaman; none of the company had any interest in the vessel or cargo, that I know of.

10. To the 10th interrogatory he says: I have known the vessel since I came on board of her, on the 28th day of November last; I first saw her at Deal harbor; she carried no guns; there were ten men on board, all told, when taken; she is American built; her name is "Stephen Hart;" I have never known her by any other name.

11. To the 11th interrogatory he says: She was bound to Cuba; the captain said he was going to Cardenas, and from there to the coast of Africa; the voyage began at London, and was to have ended somewhere in Great Britain; her cargo I am not sure of, as I was not on board when it was taken in; I have seen boxes, marked "Long Enfields," which I took to be guns; I have heard there was powder;

I have seen bales of blankets and other military equipments; I believe she has a general cargo of arms and munitions of war; I do not know when it was put on board.

236 12. To the 12th interrogatory he says: I do not know much about any of the papers; I saw a bunch of papers taken out of the teapot by the boarding officer when we were captured; I helped the officer search for papers; when these were found the officer asked the cook "what these were;" the cook said he thought that was tea; I never saw any other papers, and know nothing about any passport or sea-brief; I know nothing about any of her former voyages or cargoes; she sailed from her last clearing port, viz: Deal harbor, on the 2d day of December, on Sunday; I think it was that date.

13. To the 13th interrogatory he says: She carried a cargo of arms and munitions of war; I do not know about the details of the cargo.

14. To the 14th interrogatory he says: I do not know anything about the owners of the vessel or cargo.

15. To the 15th interrogatory he says: I do not know anything about any sale of the vessel at any time.

16. To the 16th interrogatory he says: I do not know when the cargo was put on board; I was not then in her; I know nothing about either the cargo or owners or consignees.

17. To the 17th interrogatory he says: I do not know anything about any bills of lading.

18. To the 18th interrogatory he says: I know nothing in reply to this interrogatory.

19. To the 19th interrogatory he says: I do not know exactly about the latitude or longitude; we were about 30 miles south-
237 southwest of Key West, near the coast of Florida, when taken; I know nothing about any charter-party.

20. To the 20th interrogatory he says: I know nothing about any papers of any kind, except these found in the teapot, as before stated, which were found concealed there, as I have stated.

21. To the 21st interrogatory he says: I have heard that the southern ports were blockaded; I heard this before I left England; I do not know whether the captain or owner knew it or not; I lived forward.

22. To the 22d interrogatory he says: I know nothing about the blockade, except as already stated; I know of no notice or endorsement on the ship's papers at any time.

23. To the 23d interrogatory he says: I never heard of any of the ship's papers being shown to or examined by any officer of the United States.

24. To the 24th interrogatory he says: I do not know of any attempt to enter or sail to or from any port under blockade; I have had suspicion that she was going into a blockaded port, but I cannot swear to it; I have asked the officers, but they only said we were bound to Cardenas; I supposed we were bound into some southern port, because the cargo was of a suspicious character.

25. To the 25th interrogatory he says: I know nothing about her having been seized as prize before now.

238 26. To the 26th interrogatory he says: I have sustained no loss, except my wages.

27. To the 27th interrogatory he says: I know nothing about any insurance.

28. To the 28th interrogatory he says: I do not know anything about the cargo or the owners.

29. To the 29th interrogatory he says: I do not know anything about the place of manufacture.

30. To the 30th interrogatory he says: I do not know when, or where, or how the cargo was put on board.

31. To the 31st interrogatory he says: I do not know anything about any papers.

32. To the 32d interrogatory he says: No papers were carried away that I know of.

33. To the 33d interrogatory he says: Bulk was not broken during the voyage, that I know of.

34. To the 34th interrogatory he says: There were no passengers, and no papers of any kind, except the ship's company.

35. To the 35th interrogatory he says: I have already said all I know about the papers; I have no further knowledge about any papers.

36. To the 36th interrogatory he says: We were trying to beat up to windward when taken; we had a head wind; I do not know how the vessel was steering at any time; we were trying to steer north-northeast, I think, up towards Cuba; we were in the Gulf of Florida, running in a northerly direction.

239 37. To the 37th interrogatory he says: I do not know anything about any sale of the vessel at any time.

38. To the 38th interrogatory he says: There were no mounted guns on board; she was filled, as I suppose, with arms and munitions of war.

39. To the 39th interrogatory he says: I have already stated all I know in reply to this question.

40. To the 40th interrogatory he says: She never sailed under convoy as I know of, except since her capture.

41. To the 41st interrogatory he says: I know nothing in reply to this question, except what I have already stated.

42. To the 42d interrogatory he says: I know nothing in reply to this interrogatory.

43. To the 43d interrogatory he says: I know nothing in reply to this interrogatory.

ROBERT ALLAN.

Subscribed and sworn to this 17th day of February, 1862, before me.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

240 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Robert Allan, seaman, a witness produced on behalf of the captors, was taken, by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath, directed by the 17th prize rule, was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this 17th day of February, in the year of our Lord one thousand eight hundred and sixty-two.

[SEAL.]

HENRY H. ELLIOTT,
U. S. Prize Comm'r.

250 U. S. district court.

THE UNITED STATES
ag'st
THE SCHOONER "STEPHEN HART," her tackle, &c., and cargo.

ALEXANDER KURSHEEDT, Esq.,
Proctor for Claimants:

SIR: Please take notice that on the papers and pleadings on file in this cause, and on an affidavit, a copy of which is hereto annexed, I shall apply to his honor Samuel R. Betts, at his chambers in the U. S. court building, No. 41 Chambers street, in the city of New York, on Friday, the 24th day of October instant, at 10 o'clock a. m., or as soon thereafter as counsel can be heard, for an order directing the prize commissioners to re-examine Benjamin H. Chadwick herein, upon the standing interrogatories, and allowing the testimony given by said Benjamin H. Chadwick upon such re-examination to be read in evidence on the trial of this cause, in the same manner and with the same legal effect as the testimony already given and now on file herein, or for such other and further order as to his honor may seem just and proper.

Dated New York, October 22d, 1862.

E. DELAFIELD SMITH,
U. S. District Attorney.

251 District court of the United States.

THE UNITED STATES
vs.
THE SCH'R "STEPHEN HART" and her cargo.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Benjamin H. Chadwick, being sworn, says that he was one of the persons captured on the prize schooner "Stephen Hart," and upon the shipping articles of the vessel was entered as 1st mate, although, in fact, deponent was intrusted with the virtual control. Deponent was examined as a witness herein on the 13th day of February last by the prize commissioners, and has taken recent occasion to examine a copy of the testimony given by him at that time, and deponent says that upon such examination he finds, as he supposed he should, that his answers to the 11th, 36th, and 39th interrogatories, as well as to any others which ask for the true destination of the vessel and cargo upon the voyage on which she was captured, are imperfect, and do not disclose the entire truth in relation to the subject-matter inquired of, and deponent desires the privilege of correcting the same on a re-examination by the prize commissioners, in this: that deponent well knew, and should have so stated, that the real destination of the cargo of said vessel, if not the vessel herself, was one of the blockaded confederate ports of the southern States, and that the port of Cardenas, in Cuba, was to be used simply as an intermediate port of call, and of transhipment of the cargo, if it was there determined by Charles J. Helms, the agent there of the confederate States, whose instructions deponent was directed to follow, that said cargo should be transhipped into a steamer which could with
252 greater facility be used in runing the blockade. Deponent was employed for this purpose, and by reason of his knowledge of the southern coast and of the navigation of the blockaded ports and harbors. He was employed after his examination specially upon this point at the counting-house of Isaacs, Campbell & Co., the owners of the cargo, in London, where, at the time, was the well-known Wm. L. Yancy and other persons interested in the southern insurrection. Deponent further states that he has been in no manner influenced to make this disclosure by the libellants, the captors, or any one in any manner connected with either of them; but, on the contrary thereof, he freely declares and confesses that he has been induced to do so solely by the persuasions of his wife, who is a loyal woman, now residing in Boston, and whose just reproaches have caused deponent to regret that he had ever lent his aid to such a cause, and to determine, as far as in him lies, to atone for whatever mischief he may have done.

(Signed) BENJ. H. CHADWICK.

Subscribed and sworn to this 21st day of Oct., 1862.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

253 Deposition of Benjamin H. Chadwick, (mate,) a witness produced, sworn, and examined *in preparatorio*, on the 24th day of October, in the year eighteen hundred and sixty-two, at the office of E. H. Owen, U. S. prize commissioner, upon certain of the standing interrogatories established by the district court of the United States for the southern district of New York, the said witness having been produced for the purpose of such examination by E. Delafield Smith, U. S. dist. att'y, and the examination being under and by virtue of the order for that purpose hereto annexed, in behalf of the captors of a certain ship or vessel called the "Stephen Hart" and her cargo.

1. To the 1st interrogatory he says: I was born in Maine, and now reside at Boston, Massachusetts. My wife resides there. I am a citizen of the United States. I have already been examined in this case. Since such examination, and within three or four days past, I have read over the testimony given by me upon such former examination, and find that the same needs some corrections, especially the answers which I gave to the 11th, 36th, and 39th interrogatories, in regard to the ownership and the destination of the vessel and
254 cargo.

In answer to the 11th interrogatory, (which is now carefully read over to the witness,) he says: The vessel was bound to Cardenas, in Cuba, but the destination of her cargo was certainly to one of the Confederate States, and the vessel was in like manner so destined, if Charles J. Helm, the confederate agent at Cuba, should so direct .That voyage began in London, and was to have ended at Cardenas, or any port in the Confederate States which the aforesaid confederate agent should direct.

To the 36th interrogatory he says: The vessel was steering for Cardenas, but that port was to be used only as an intermediate port of call, and of transhipment of the cargo, if necessary, or ordered by Charles J. Helm, before stated.

To the 39th interrogatory he says: In addition to what I have already testified to on the present and on the former examination, and in correction thereof, I desire to state: I was first officer on board of the "Stephen Hart" when she sailed on her voyage from New Orleans to Havana, in June, 1861. She was then called the "Tamaulipas." She had a general cargo and passengers. She was boarded on her way out by the U. S. war vessel "Powhattan." At Cuba she discharged her cargo in Havana, and went around to Matan-
255 zas, and there took in a cargo of sugar, and proceeded, under the same name, for Falmouth, England, for orders. At Falmouth she was ordered to Bristol, where she proceeded and discharged her cargo. She there hauled up, in company with confederate vessels, and was advertised for sale, and was sold to John Myers Harris, an Englishman. After he bought her he wished me to continue in her as mate; that either she would go to, or else he would put me on board of another vessel to go to the Confederate States. Upon this understanding the vessel took in a load of staves and proceeded to London, and she discharged her cargo in the Grand Surrey canal. The cargo was discharged in haste in order to be

ready to receive a cargo after she had been so discharged and before she commenced taking in cargo, I received a telegram from the above-named Harris, I think—but of this I am not certain—requesting me to go to No. 71 Jermyn street, London, but without stating for what purpose. I accordingly went, and was there introduced to Mr. Isaacs, the head of the firm of Isaacs, Campbell & Co., and also to a Mr. Hughes, whose first name I did not learn, and who told me
he was the commercial confederate agent for purchasing arms
256 and ammunition for and shipping the same to the confederate
States. He asked me how I would like to run the blockade of the southern States in the Stephen Hart. I answered that I would sooner go in a steamer. There was no definite arrangement made at that time. I was again sent for, and went to the same place where I met Mr. Isaacs, the same Capt. Hughes, and William L. Yancey, of the United States. There was also a South Carolina captain there. I was taken by Capt. Hughes and this South Carolina captain (whose name was Connor) into another room, and there fully examined in regard to my knowledge of the southern coast of the United States. I was then employed by Captain Hughes as a pilot agent, and to leave the Stephen Hart and go on board of a steamer which he had chartered and which was then taking in a cargo of arms and ammunition for the confederate States. I was to leave the Stephen Hart, go ashore and take lodgings, and observe secrecy until I was called, which I did. About a week afterwards I was told to go on board of the steamer Gladiator, then lying in the Thames, and examine and see if she had proper boats for landing her cargo in the surf upon the
southern coast, if required, and report to Hughes. I did so,
257 and reported that she had, with the exception of one boat. I was then ordered to take my things on board of that vessel, the Gladiator, and proceed in her to Nassau, and there either obtain a pilot for her, or else pilot her myself into some southern port of the confederate States, between Cape Carnaval, in Florida, and York river, Virginia. I went on board accordingly. That vessel was loaded with arms, ammunition, and army outfits. After I got aboard it was found that she could not carry all the cargo which had been bought for her, and accordingly what portion thereof could not be taken by the Gladiator was put aboard of the Stephen Hart, together with other like cargo to fill her up. I was ordered to proceed from the Gladiator and take charge of the loading and fitting out of the Stephen Hart, which I did. On my recommendation to Capt. Hughes, Capt. Dyett was appointed master of the Stephen Hart, while I was to go in her nominally as mate, but really in charge of the cargo, consisting of arms and munitions of war. The vessel proceeded down the Thames several miles, and then took aboard a quantity of powder. Before the Stephen Hart left, I was instructed by Capt. Hughes to proceed to Cuba—that is, to Cardenas—and there to work under the instructions of Charles J. Helms, the agent for the confederate States at that place. He said the cargo was to be there
transhipped into a steamer, which could be used with greater
258 facility in running the blockade, or she might be ordered to proceed herself. The agreement was, that I should have $45

a month for all the time I was employed, including any time that I might be detained or imprisoned in consequence of any attempt to run the blockade, and if I had gone in the Gladiator I was to have received a bounty of $500; and in the Stephen Hart, if ordered by Helm to cross the blockade, I was to have a bonus to be agreed upon with him. Up to the 4th June, 1862, my wages have been paid under such arrangement. I believe I have now stated the facts in relation to the vessel and cargo, and my connexion therewith, fully and accurately. In doing so, I have not been influenced to make the same by any persons in any way connected with the libellants or captors of the Stephen Hart; but, on the contrary thereof, I have been induced to do so solely by the persuasions of my wife, who is a loyal woman, and now residing in Boston, and whose just reproaches have caused me to regret that I had ever lent my aid to such a cause, and that I had omitted to make a full statement of the matters above set forth on my former examination; and I thereupon determined, as far as possible, to atone for whatever mischief I may have done, by correcting and explaining my former testimony as above. I wish to add about the flags which were on board of the Stephen Hart.

259 She sailed under English colors. She also had an American flag—stars and stripes, which we cut up for a burgee. She also had the confederate flag, which, after the capture of the vessel and while the captors were in charge, I took from where it was hid in my clothes-bag and threw overboard. The flag was intended to be displayed in connexion with a peculiar one, called the "Isle of Man's flag," or signal, which was adopted by the southern States as a signal for a friendly vessel wishing to enter, and which should be protected, as far as possible, by them.

This is all I wish to state in explanation of my former testimony, except that on my examination before mentioned, I recommended them to purchase the latest official report of the United States Coast Survey, which I was told to purchase at any price. I obtained one. It was not purchased, but was presented to me by R. H. Leonard, mate of the ship Alexander, then lying in Bristol. I also received a letter from Captain Johnson, of the ship "Noami," of Charleston, S. C., giving me a description of the entrance at Charleston; and I also received from him letters for his wife and for other persons residing in the confederate States, which were forwarded to the parties by the Gladiator.

BENJ. H. CHADWICK.

260 Upon the annexed affidavit and notice of motion, and upon the statement of the counsel for the captors, that the witness therein named is engaged as first mate upon a vessel laden by the government, and this day to depart for Newbern, it is ordered that the witness be examined by the prize commissioners, or either of them, on the standing interrogatories in prize; the question of the admissibility of the same to stand over for future determination.

New York, October 24, 1862.

(Signed) SAM'L R. BETTS.

Endorsed: Dist. court of the United States. The United States *vs.* The schooner Stephen Hart and her cargo—(17, 81.) Supplemental deposition of Benjamin H. Chadwick, *in preparatorio*, taken under the within order.

Service of a copy of affidavit and notice admitted Oct. 22, 1862.

ALEX'R KURSHEEDT,
Proctor for Claimants.

Filed 31st Oct., 1862.

261 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Edward H. Owen, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Benjamin H. Chadwick, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories" therein mentioned; that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this 24th day of October, in the year of our Lord one thousand eight hundred and sixty-two. [SEAL.]

EDWARD H. OWEN,
U. S. Prize Com'r.

262 District court of the United States for the southern district of New York.

In the matter of the Schooner Stephen Hart and her cargo, taken as a prize.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Geo. M. Colvocoresses, being duly sworn, deposes and says that he is commander in the United States navy, and in command of the United States ship Supply, now in this port, where he arrived on the evening of the 12th day of February, instant, having under convoy the above-named prize schooner Stephen Hart; that said schooner was taken as prize by the deponent, in command of the above-named U. S. ship Supply, on the 29th ult'o, in lat. 24° 12′ or thereabouts north; longitude 82° 31′ west, near Marquesas keys, or Key West, on the coast of Florida, the said vessel being loaded with munitions of war, without either manifest or bills of lading; that

there were found on board of said schooner, after her seizure, the following papers, now delivered to the prize commissioner, and by him marked as follows:

A register, marked in red ink ..... A.
A victualling bill ..... B.
Certificate attached ..... B No. 1.
" letter ..... C.
One letter ..... F.
Do ..... G.
Do ..... H.
Telegraph ..... I.
Telegraph ..... K.
263 One letter ..... L.
One certificate of discharge ..... M.
One certificate ..... N.
" " ..... O.
" subpœna of the court in New Orleans ..... P.
" cargo book ..... Q.
" duty receipt ..... R.
" custom-house certificate ..... S.
" clearance ..... T.
Receipt, Dover harbor duty ..... V.
One letter, addressed Benjamin Chadwick, dated Oct. 29, 1861, Bristol, signed John Johnson ..... No. 1.
One letter signed R. H. Leonard ..... No. 2.
" " " ..... No. 3.
" " Sam. O. Merrill ..... No. 4.
" " ..... No. 4 B.

Four envelopes, marked 5, 6, 7, and 8.
Two log-books, marked 9 and 10.
Maury's Coast Survey, 11.

That deponent has delivered to the prize commissioners each and every document, paper and writing, received by him, relating to the aforesaid captured property, in the same state and condition in which he received them, without any fraud, subduction, or embezzlement, and without any additions or alterations whatever, and he does not know, nor does he believe, that any of the documents, papers, and writings, so received, are missing or wanting.

The deponent further says, that if, at any time hereafter, and before the final condemnation or acquittal of the said captured property, any further or other papers relating thereto shall be
264 found or discovered to his knowledge, they shall be delivered up, or information thereof given to the prize commissioners of this district or to this court.

GEO. M. COLVOCORESSES,
Com'r U. S. Navy, Commd'g U. S. S. Supply.

Subscribed and sworn to this 13th day of Feb'y, 1862, before me.
HENRY H. ELLIOTT,
U. S. Prize Com'r.

265 You will excuse so many different kinds of paper, but it is all I have in the house, and I wish to send it to-day, as I try very hard for you to get my letters, but we cannot depend on the mails south much, now; but now, I think you will get this. Hannah's husband is dead; he died south. We are all quite well. In my next letter I will write you all the news I can get at. So now, my dear husband, you will write as soon as you arrive, and with a heart full of love for you alone,

I remain your true and devoted wife,

LERE.

Box, 278, Chelsea.
(No. 4, B. H. H. E.)

266 I will now close, by wishing you success. I ran over to the Brazils in about a month; so good night.

From your affectionate cousin,

JOHN P. MERRILL.

P. S.—When you write to London, just direct as follows: Samuel O. Merrill, care of her British Majesty's consul, *Havannah*, Cuba. To be left until called for.
(No. 4, H. H. E.)

267 BRISTOL, *October* 29, 1861.

FRIEND CHADWICK: It is with much pleasure I received your letter this morning; it is with much greater pleasure that I am able to furnish you with the book required, without price. The book you wrote for belongs to me, and were it worth 50 pounds I would willingly give it to an enterprise of yours, particularly to one whom I have professed so much friendship towards. I hope it may be of valuable service to you. Capt. B. left this morning for Liverpool too soon to receive your letter.

Captain Johnson will make out the charter; also write you some information; also write a letter which he will wish you to deliver or forward. Mrs. Bain will also have a letter for you to take and forward to Virginia if you arrive safe. I hope you may be successful; if so, report the old Alexander laying up in Bristol, with the palmetto tree constantly flying, and that her capt. and officers are ready to aid the south in any enterprise. Tommy, I will not ask you to disclose the secret of your voyage; be whatever it may, I believe it is true to the south. My heart and well wishes are with you,

268 hoping you may be successful and I may hear of the consequences. If that book proves serviceable to you, it will afford me more pleasure than its weight in gold in return. I rec'd your first letter, and answered by return mail, but did not put Surey Canal on it, therefore it must be in the P. O. Purdy has gone to Cardiff to load for Panama. Phillips is well. I shall send the book per express this evening. I wish you to write me two or three mails before you go to sea. Mrs. Bain may have some other letter to send. If you

should fail, destroy. If you should call in to other ports allow me to hear from you. Your package shall be sent this evening.

Very respectfully,

R. H. LEONARD,
Ship Alexander, Confederate States.

(No. 3, H. H. E.)

269 BRISTOL, *Friday Night.*

FRIEND CHADWICK: It was with much pleasure that I received your letter this evening. As I expected, you had a long passage, and thought might have been an unpleasant one. The night after you left I engaged to pass the local marine board, and have been attending school every night since from 7 to 9 p. m., which I think is a better way to spend my money than running around London, Bristol, or Liverpool. I think next Tuesday week I shall pass for first mate; second week following will pass for master. Ship Conference, Purdy, mate, left last Saturday for Cardiff, which leaves me and Phillips to do all the night-walking alone; it is mighty dull and lonesome here now. I go to the Broad Mede rooms Saturday nights, as usual, and intend going to-morrow night. I shall see my girl there; she's a sister to the one you saw me with the last night you were here. The confederate cause is progressing slowly; we have three confederate ships in the corner—Noemis, Alexander, (flag-ship) Virginia Dare; we have our new flag on board, and my capt. is ready to
270 hoist it as soon as either of the others will hoist with him. I give your respects to Phillips; showed him the letter also; he said he would write to-night. I sent your respects in a letter to Purdy; I know he will be glad to hear from you. Purdy is as fine an Englishman as you will find in any part of the world, and I miss him very much. There are no boarders at Lonnen's; I seldom go there. I seen Gilmore at night, but did not mention anything of the letter to him; I have very little chat with him any how. Your girl, Miss Pony, looks fat and rosy; I never have spoken to her. Capt. Bain has had a letter from Capt. A. since you left; he was well and in good spirits. I wish you will write again before you leave; give me the particulars of your voyage, what your cargo consists of, and if you have got any guns on board. I must now conclude, hoping to meet soon under the confederate flag.

I remain, very truly, yours,

R. H. LEONARD,
Ship Alexander, of Portsmouth, Va., C. S. of A.

To B. H. CHADWICK, *alias* POMMY.
First Officer, Stephen Hart.

(No. 2, H. H. E.)

271 (No. 1, H. H. E.)

BRISTOL, *Oct.* 29, 1861.

Mr. BENJAMIN H. CHADWICK:

D'R SIR: Mr. Leonard, chief officer of the ship Alexander, and I, had some private conversation this morning concerning some things which I need not now repeat, as regards any information that I might give as regards the entrance to the harbor of Charleston. In case you should make an attempt to go in there, I can only say that the wrecks that have been sunk there on the Indian ship bar are now no hindrance to any vessel drawing sixteen feet water, and the so-called new channel, which lays about three miles to the northeast of the old bar channel, has the same depth of water. A vessel drawing not over ten feet of water can safely make for the channel by having the C. light-house to bear NW. to ½ W. to NW. by W., but not to bear to the westward of the latter course. When 4½ to 5 miles SE. from the light-house, the overfall or north channel, (I am not acquainted with the beach channel,) I think, will be the safest to attempt to enter, if you have time and daylight in your favor, because you could easily get a pilot or some one from Sullivan's island
272 to take you through the narrow channel off Fort Moultrie. The chart of Charleston harbor, in the book called the U. S. Coast Survey, will be your best guide. There are not now any lights or buoys to guide any one to enter the harbor of Charleston, or any other port on the southern coast. Thus the lead and a strict lookout must be your pilot, as there are no pilots to be had anywhere outside. Enclosed is a letter which I leave unclosed, and I beg that you will, in case you succeed in safely reaching any southern port, forward the same to its destination. At the same time do not its incumbrance in any way interfere with your enterprise. Destroy it if need be; but if it could be managed to forward it safe to my wife I shall ever feel grateful towards you for your kindness. I hope and trust that you will succeed in your undertaking. Observe secrecy by all means, and I can assure you that no information as regards the Stephen Hart's whereabouts or movements shall be gained from me by any one here or elsewhere. Please give my kind regards to your captain, (Aulkley.) May the God of justice guide you safely to your port of destination, is the fervent prayer of one that loves the south, its institutions, and its people.

273 I remain, respectfully,

JOHN JOHNSON,

Ship Noemie, care of J. P. Snell & Co., Bristol, Eng.

P. S.—If there is any further information I can give you please write me, and I'll not fail to give you all and any information I have in my power to give.

Yours, respectfully,

(Superscription.)

Mr. Benjamin H. Chadwick, schooner Stephen Hart, Sury Canal, London.

274 The President of the Confederate States to B. H. Chadwick, first mate of bark Chester.

By virtue of a writ of subpœna herewith shown to you, you are commanded personally to be and appear before R. M. Lusher, prize commissioner, district of Louisiana, at the city of New Orleans, on the 29th day of May, 1861, to testify the truth, according to your knowledge, in a certain cause depending between Confederate States and bark Chester, at 10 o'clock a. m.; and hereof fail not, under the penalty of two hundred and fifty dollars.

By order of court.

J. W. GURLEY, *Clerk.*

Discharged to 12 m., Sat'y, 1st June, 1861.

R. M. L., *P. Com'r.*

(P., H. H. E.)

275 (L, H. H. E.)

71 JERMYN STREET, LONDON, SW.,
November 19, 1861.

DEAR SIR: In confirmation of my last, permit me to ask your assistance and advice for Captain Dyett, of the Schooner "Stephen Hart," should he need it during his stay at *Havannah.*

Permit me to be, yours most faithfully,

SAUL ISNALD.

C. CRAWFORD, Esq.,
H. M. Consul General, Havannah.

(K, H. H. E.)

DEAL STATION.

British and Irish Magnetic Telegraph Company, (limited) in exclusive connexion with the Submarine Telegraph Company.

W. GAYWILL.

Received the following message the 24th day of Nov., 1861:

LONDON, *Deal.*

From ——————————, to ——————————.
Name: S. Isaac, Lloyds.
Address: ——————————, Jermyn st.
Address: ——————————, Agent.

Captain Dyett will proceed on his voyage at once, and make up for lost time—wish him a successful voyage.

276 (I, H. H. E.)

DEAL STATION.

The British and Irish Magnetic Telegraph Company, (limited,) in exclusive connexion with the Submarine Telegraph Company.

W. GAYWILL.

Received the following message the 23d day of Nov., 1861.
From ————————, to ————————.
Name, S. Isaac.
Address, Campbell & Co., 71 Jermyn st., London.
Name, Lloyds' agent, Deal.

Please detain schooner Stephen Hart, bound for Cardenas for orders. We pay all expenses. Reply per telegraph. Letter per post.

277 (H, H. H. E.)

BRISTOL, *Oct.* 14, '61.

DEAR SIR: Your favors, &c., was duly read. The sch'r will not get away till Wednesday, if she does then. I was glad to hear from you, and greatly obliged for your attention in forwarding, &c.

Please find inclosed stamps for those 26 c'ts. My health is perfectly good. I shall not leave here for some days yet. I found the coat, and wrote you to G. & E. wait that night.

Yours, in haste,

A. S. ACKLEY.

Mr. CHADWICK.

278 (G, H. H. E.)

B. H. CHADWICK.

D'R SIR: The bearer, Capt. Irving, will now take charge of the sch'r.

I would like you to go to London in her. She will probably leave Tuesday.

Yours, &c.,

A. S. ACKLEY.

Superscription: Mr. Chadwick, present.

279 (F, H. H. E.)

71 JERMYN STREET, SW.,
November 19, 1861.

B. H. CHADWICK.

SIR: We have this day received the second of twenty pounds, which we undertake to forward through our correspondent at New York, to your wife at Boston, as advised by you yesterday.

We are sir, your obed't servants,

S. ISAAC, CAMPBELL & CO.

Superscription: Mr. Chadwick, schooner Stephen Hart.

280 (C, H. H. E.)

LONDON, *Nov.* 22, 1861.

Capt. DYOTT, *Schooner Stephen Hart.*

DEAR SIR: We require some matters arranged before the schooner leaves. You will receive this per Lloyds' agent. Attend to the orders, and wait until you hear from yours, truly,

S. ISAAC, CAMPBELL & CO.

281 (A, H. H. E.)

Form No. 9.

Sailing ship.

Certificate of British registry.

{ Royal } { arms. }

Signal letters, T. R. V. F.

Official number of ship, 44,134.

Port number, 249.

Date of registry, 15th October, 1861.

Name of ship, "Stephen Hart."

British or foreign built: Foreign; built at Greenport, State of New York, United States of America, in the year 1859. Her foreign name was "Tamaulipas."

Port of registry, Liverpool.

How propelled, by sails; number of decks, one and break; number of masts, two; rigged, schooner; stern, square; built, carvel; galleries, none; head, scroll; framework, wood.

Measurements.	Feet. Tenths.
Length from the forepart of stem, under the bowsprit, to the aft side of the head of the stern-post	107.6
Main breadth to outside plank	28.3
Depth in hold, from tonnage deck to ceiling, at midships	7.6
Name and address of builder, ———.	

Tonnage.	No. of tons.
Tonnage under tonnage deck	142.55
Closed in spaces above the tonnage deck, if any, viz:	
Space or spaces between decks	
Break	77.30
Round house	
Other inclosed spaces, if any, naming them	
Total register tonnage	219.85

282 I, the undersigned, registrar of the port of Liverpool, hereby certify that the ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true; that George Erwin, whose certificate of service is No. 38,764, is the master of the said ship, and that the name, residence, and de-

scription of the owner, and number of sixty-fourth shares, held by him, are as follows:

Name, residence, and occupation of the owner: John Myer Harris, of Liverpool, in the county of Lancaster, merchant. Number of sixty-fourth shares, sixty-four, (64.)

Dated at Liverpool the fifteenth day of October, one thousand eight hundred and sixty-one.

S. PRICE EDWARDS, *Registrar.*

"NOTICE.—A certificate of registry, granted under the merchant shipping act of 1854, is not a document of title. It does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship."

Endorsed: N. B.—Endorsements of changes of owners and masters must be made as directed by the instructions to registrars, and will follow here:

CUSTOM-HOUSE,
London, 15*th Nov'r*, 1861.

I hereby certify that Charles Nathaniel Dyett, the number of whose certificate is 72,139, has this day been appointed master of the ship within described.

A. WILLIAMSON, *p'r Reg.*

283 (A.)

(Sanctioned by the Board of Trade, August, 1860, in pursuance of 17 and 18 Vict., c 104.)

Agreement for foreign-going ship.—Executed in folio.

Copy—Amount of fee, £1 0 0.

POPLAR, 16 *Nov.*, 1861.

Name of ship, Stephen Hart.
Official number, 44,134.
Port of registry, Liverpool.
Port No. and date of registry, 249; Oct. 1, 1861.
Registered tonnage, 219.
Managing owner.—Name, John Myer Harris.
Address, (state No. of house, street, and town,) Liverpool.
Master.—Name, Charles Nathaniel Dyett.
No. of certificate, 72,137.
Address, (state No. of house, street, and town,) Victoria Cottage, Park road, Peckham.

Date and place of first signature of agreement, including name of shipping office: 16th November, 1861, London, Poplar.

Scale of provisions to be allowed and served out to the crew during the voyage.

	Bread.	Beef.	Pork.	Flour.	Peas.	Tea.	Coffee.	Sugar.	Water.
	Lb.	*Lb.*	*L.*	*Lb.*	*Pts.*	*Oz.*	*Oz.*	*Oz.*	*Qts.*
Sunday	1	1½	------	½	------				
Monday	1	------	1¼	------	¼				
Tuesday	1	1½	------	½	------				
Wednesday	1	------	1¼	------	¼	¼ daily.	½ daily.	12 per week.	3 daily.
Thursday	1	1½	------	½	------				
Friday	1	------	1¼	------	¼				
Saturday	1	1½	------	------	------				

NOTE.—Vinegar, sugar, and lime-juice per act of Parliament.

[Here any stipulation for changes or substitution of one article for another may be inserted.]—Substitutes may be given, at the master's discretion, as comfort or necessity may require, at a proportionate rate, for any or all of these provisions.

284 The several persons whose names are hereto subscribed and whose descriptions are contained below, and of whom six are engaged as sailors, hereby agree to serve on board the said ship, in the several capacities expressed against their respective names, on a voyage from [here the voyage is to be described and the places named at which the ship is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated] London to Cuba and Sierra Leone, and any port or ports on coast of Africa, and—or North, and—or South America, and—or West Indies, and back, to a final port of discharge in the United Kingdom, voyage not to exceed twelve months.

And the said crew agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said master, or of any person who shall lawfully succeed him, and of their superior officers, in everything relating to the said ship and the stores and cargo thereof, whether on board, in boats, or on shore; in consideration of which services to be duly performed, the said master hereby agrees to pay to the said crew as wages the sums against their names respectively expressed, and to supply them with provisions according to the annexed scale. And it is hereby agreed, that any embezzlement or wilful or negligent destruction of any part of the ship's cargo or stores shall be made good to the owner out of the wages of the person guilty of the same; and if any person enters himself as qualified for a duty which he proves incompetent to perform, his wages shall be reduced in proportion to his incompetency.

And it is also agreed, that if any member of the crew considers himself to be aggrieved by any breach of the agreement or otherwise, he shall represent the same to the master or officer in charge of the ship, in a quiet and orderly manner, who shall thereupon take such steps as the case may require; and it is also agreed that [here any

other stipulations may be inserted to which the parties agree and which are not contrary to law] no spirits are allowed.

In witness whereof the said parties have subscribed their names hereto on the days against their respective signatures mentioned.

285 Signed by Charles Nathaniel Dyett, master, on the 16th day of November, 1861.

[This is to be filled up if such an authority has been produced.] The authority of the owner or agent, for the allotments mentioned below, is in my possession.

GEO. DUNLOP,
Shipping Master.

	Signatures of crew.	Age.	Town and county where born.	Ship in which he last served, official number and port she belonged to, or other employment.	Date and place of discharge from such ship, Date.	Date and place of discharge from such ship, Place.	Time and place of joining ship, Date.	Time and place of joining ship, Place.	In what capacity engaged, and if mate, No. of his certificate, (if any.)	Time at which he is to be on board.	Am't of wages p'r calendar month, share, or voyage. £. s. d.	Amount of wages advanced on entry. £. s. d.	Shipping master's signature or initial.
	Charles N. Dyett	41	Demarara	Caroni, London	Jan'y, '61	London	16 Nov., 1861.	London.	Master, 55,851	Noon on Sunday, 17 Nov., '61.			
1	Samuel Banks	41	Aldgate	" "	"	"			Mate		6 0 0	0 0 0	G. D.
2	Charles Nellmann	25	Orkney	Nepesequest, Milford	29 Sep., '61	"			B'swain		3 10 0	3 10 0	G. D.
3	John Leisk	26	Hull	Bridgetown, London	5 Nov., '61	"			Cook and steward		3 10 0	3 10 0	G. D.
4	Carl Person	20	Sweden	German ship		"			A. B		2 10 0	2 10 0	G. D.
5	Charles O. Hatch	42	"	Russian ship		"			A. B		2 10 0	2 10 0	G. D.
6	Eugene Marvin his	40	France	American ship		"			A. B		2 10 0	2 10 0	G. D.
7	John × Leary mark.	28	London	Eliza Ann, London	10 Nov,, '61	"			A. B		2 10 0	2 10 0	*G. D.
8	Enoch Bain his	22	Nova Scotia	American ship		"			A. B		2 10 0	2 10 0	G. D.
9	William × Robertson mark.	41	Sweden	"		"			A. B		2 10 0	2 10 0	G. D.

* Deserted.

287 Place for signatures and description of substitutes.

NOTE.—Here the entries are to be made as above, except that the signature of the consul or vice consul, officer of customs, or witness before whom the man is engaged, is to be substituted for that of the shipping master.

Thomas Williams····35.—Wigton-Ada, Waterford, Nov. 11, '61; London, Nov. 22, '61; Gravesend, A. B., at once, 2. 10. 0. 2. 10. 0.—W. H. E.

Benj. H. Chadwick ··29.—American, Tamaulipas, Nov. 2, '61; London, Nov. 10, '61; chief officer, 9.—H. Haywood.

Robert Allan·····21.—Alloa, Juan, St. Thomas, 16 Nov., '61; Chatham, 29 Nov., '61; Deal, 2. 10. 0. 2. 10.—Broker.

After the presentation and identification of the ship's papers and documents in the case of the "Stephen Hart," this paper, being apparently the agreement or shipping articles of the crew of said vessel, was found between the leaves of one of the log-books of said vessel, and called to my attention by the proctor of the claimants. On investigation relative thereto, I am satisfied that it was accidentally left in said log-book, and not presented by the prize master in form, with the ship's papers, to the prize commissioner, but is properly among said papers, and is so recognized and identified by me.

New York, May 7, 1862.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

288 District court of the United States for the southern district of New York.

In the matter of the Stephen Hart and her cargo, taken as a prize.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Henry H. Elliott, being duly sworn, deposes and says, that he is one of the United States prize commissioners of this district; that soon after the arrival of the above-named prize in this port, one of the officers in charge of said prize placed in the hands of deponent some letters, which he represented to be private papers belonging to Benj'n H. Chadwick, the mate of the said prize; that these letters were not presented to deponent by the prize master as the ship's papers, nor as papers relating to or a part of the papers seized with the prize as ship's papers, but as private letters belonging to the said Chadwick; that under the advice of Mr. Woodford, then acting as assistant district attorney, and at the request and by the consent of the said Chadwick, deponent carefully read the said letters or papers, and found them to be only the private letters of the wife of the said Chadwick to her husband; that in the said letters or papers, there was not one word relating to the ship Stephen Hart, her cargo, her

voyage, or destination; that thereupon, on the further advice of Mr. Woodford, aforesaid, the said letters were handed to Mr. Chadwick as his private property; that these papers were returned to
289 the said Chadwick several months before his re-examination, and with no reference to such re-examination, and with no knowledge or suspicion that any such re-examination would ever occur.

HENRY H. ELLIOTT.

Sworn to before me May 16, 1863.

H. H. RICE,
[SEAL.] *Notary Public, N. Y. City.*

Endorsed: 17, 81. U. S. district court. Affidavit of Henry H. Elliott in re. "Stephen Hart."

Filed 16th May, 1863.

290

Log-book of the schooner Stephen Hart, on a voyage from London to Cardenas, Cuba, commanded by Charles Nathaniel Dyett, commencing 19th November, 1861, ending ———, kept by Benj'n Hiram Chadwick. [London: Sold at all navigation warehouses, chart-sellers, &c., &c.]

291 REMARKS.

Tuesday, November 19, 1861.—This day commences with light westerly winds and fine weather. P. m. Mr. Henrison, pilot, took charge of the schooner Stephen Hart, on a voyage to Cuba. At 2 p. m. towed by steam from the Grand Lung Dock to Enth, to take in the remainder of cargo; four men employed to assist. At 5 p. m. brought up off Enth; the mate and one seaman absent. At midnight fine.

Wednesday, Nov. 20, 1861.—A. m. commences with moderate and fine weather. At 7 took in 60 cases, marked S I C & C as per cargo book. Noon employed discharging lighters as sent. P. m. fine and settled weather. At 6 p. m. finished taking in cargo. At 8 p. m. steam-tug took us in tow, and proceeded to Gravesend. At 10.30 brought up at Gravesend. Midnight thick weather and rain.

292 *Thursday, Nov.* 21.—The weather cloudy, with strong gales; the schooner lying at Gravesend loaded with a cargo of merchandise, and drawing 8 ft. 3 inches of water aft and 7 ft. 5 inches forward, and being tight, staunch, and well found with tackle, provisions, and manned for the present voyage, except the mate, who has not come to perform that duty. Wherefore I, Benj. H. Chadwick, have this day engaged with Capt. Charles N. Diet to proceed on the voyage, having been engaged as shipkeeper on board since the 2d of the present month, the crew consisting of six seamen, cook, and steward, captain, mate, and boatswain, in all numbering ten persons. The crew employed throughout the day securing boat's water casks, &c.; the captain went on shore to obtain some iron-work, leaving the pilot in charge. At 8 p. m. stormy, with increasing gales, the vessel commenced to drag her anchor at 10 p. m., when the tide turned to run up, hove up the small anchor and let the vessel drive up the river about one mile, and came to anchor with the sheet anchor and 35 fathoms chain. This ends this day.

293 *Friday, Nov.* 22.—In the morning the captain came on board; got under way with a fresh breeze from W. NW., and proceeded down the river, one man sick and laid up. P. m. weather stormy. At 5 p. m. came to anchor off N. Foreland light with sheet anchor and 30 fathoms chain; handed all sails. Thus passed this day, the pumps carefully attended to.

Saturday, Nov. 23.—In the morning weather clear and pleasant, with fresh gales W. NW.; got under way and proceeded to the Downs, where we came to anchor in nine fathoms water with the sheet anchor and 35 fathoms chain, the captain received instructions from parties in London to wait here until further orders; the pilot went on shore; South Foreland light bearing SW. ½ S., per compass, and full stream, light bearing NE. ¼ N.; one seaman, by the name of Thomas Williams, is sick and laid up; the crew employed variously; employed pilot to stop by the vessel while lying here.

294 *Sunday, Nov.* 24.—In the morning the weather pleasant, with fresh breeze from NE., vessel waiting orders; one seaman still laid up sick. At 5.30 p. m. received orders to proceed on the voyage, the wind having hauled to the W.NW., being lite and ahead, and thus continued this day. Pumps being carefully attended to, set light in the riggen; also kept anchor watch, chains fast around the foremast.

Monday, Nov. 25.—The weather continued moderate through the night; in the morning strong gales from the W.SW., paid out fifteen fathoms more chain, making in all seventy-five fathoms scope; saw a large number of vessels returning to anchor. At 2.30 p. m., the vessel apparently having dragged the anchor, paid out to eighty-five fathoms; the remainder of the day stormy, close-reefed the fore and main sail. Broached a barrel of pork, and served out rations to crew according to act of Parliament.

295 *Tuesday, Nov.* 26.—The weather continues stormy, vessel still riding to the sheet anchor and 85 fathoms chain; latter part moderate baffling breezes; crew employed putting on chafing gear except one man, who continues sick and laid up; the captain gave him medicine. Broached second cask water.

Wednesday, Nov. 27.—Commences with moderate breezes baffling from all points of the compass. At 12 m. purchased the anchor, (the wind being W.SW.,) and hoist the jibs; went near in shore and came to anchor in eight fathoms of water with the sheet anchor and fifty fathoms chain, South Foreland light bearing SW. two and half miles; had two shackels from the shore, and put fifteen fathoms new spare chain on to small anchor, making the length of the chain seventy-five fathoms. Broached first barrel salt beef.

296 *Thursday, Nov.* 28.—Begins with light baffling breezes from the westward and pleasant weather, crew employed variously; shortened the topmast heads six feet each; at noon calm and pleasant weather; p. m. moderate breezes from W.SW., with stormy appearance; one man still continues sick and laid up; latter part stormy.

Friday, Nov. 29.—Begins with fresh gales and dark, stormy weather; in the morning paid out 85 fathoms chain; at noon a seaman came on board and signed the articles to go the voyage in the schooner; Thomas Williams was sent on shore by mutual consent. P. m. the weather continues stormy, crew employed between showers on ship's duty.

Saturday, Nov. 30.—Begins with moderate W.SW. gales and cloudy weather; middle part much the same; pumps carefully attended to; ends with fresh gales from W.NW. and passing showers; still lying with sails reefed and 85 fathoms chain out.

297 *Sunday, Dec.* 1, 1861.—Begins with fresh breezes from the W.NW. and clear weather; p. m. much the same, the wind hauling a little to the northward.

Monday, Dec. 2, 1861.—Begins with light breezes and pleasant weather; at 1 o'clock called all hands, (the wind N.NE.,) hove in 35 fathoms chain, wind baffling and canting back to the NW.; sent the watch below; at 5 a. m. hove short, made sail; it being calm, let everything stand; at 2.30 tide turned ahead; the wind sprang up from the south; handed all sail until 3.30 p. m.; at slack water got under way, and proceeded towards the channel; at 4 pilot off S. W. Head; at 8 o'clock Dungeness light bore NE. ¾ N. 6 miles distant; at 11 made Beachy Head light, bearing NW., and at 12 m. it bore N.NW. 10 miles.

Tuesday, Dec. 3.—Begins with moderate breezes and pleasant weather; steered west down the channel; middle part fresh breezes; ends pleasant; pumps carefully attended to. Thus ends this day of 12 hours in order to Lat. obs'd.

298 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W.NW.....	6	....	SE.....	.....	*Wednesday, Dec.* 4.—Begins with fresh breezes and pleasant weather, all sail set before the wind; at 5.30 p. m. the Casket's light bore S.SW., distant 15 miles, from whence I take my d'p.
2	.....	6	....	.....	.....	
3	.....	5	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	4	....	.....	.....	
10	W. ½ S.....	4	....	South	.....	
11	.....	4	....	.....	.....	
12	.....	3	....	.....	.....	Middle part fresh breezes; handed light sails.
1	.....	3	....	.....	.....	
2	.....	4	....	.....	.....	
3	.....	4	....	SW	.....	
4	.....	4	....	.....	.....	
5	.....	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	W. by S.....	4	....	.....	1	
8	.....	4	....	.....	.....	
9	W.NW.....	4	....	.....	.....	Ends much the same; pumps carefully attended to.
10	.....	4	....	.....	.....	Variation, 25° west.
11	.....	5	....	.....	.....	Lat. obs'd, 49° 38′.
12	.....	5	....	.....	.....	Dist. per log, longt. 4° 24′.
299						
1	W.NW	6	....	SW.....	.....	*Thursday, Dec.* 5.—At noon pleasant; at 4 p. m. increasing breezes and cloudy weather; put one reef on mainsail, handed flying jib.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	5	4	.....	1	
8	S.SE.....	5	4	NW.....	2	
9	S. by W. ½ W.	3	....	.....	.....	
10	.....	3	....	.....	.....	At 6 p. m. the Lizzards lights bore N. N. by E., 16 miles, from whence I renew my departure; tacked ship to the southward.
11	S.SW	3	....	.....	.....	
12	.....	3	....	.....	.....	
1	.....	2	4	.....	.....	At 8 put one reef in the foresail; at midnight the weather stormy, handed jib and double reefed mainsail.
2	.....	2	4	.....	.....	
3	W. ½ N.....	2	4	.....	.....	
4	.....	2	....	.....	.....	
5	W. by N. ½ N..	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	.....	.....	Ends much the same, with a heavy swell heaving from
9	.....	3	....	.....	.....	the westward.
10	.....	3	....	.....	.....	Variation, 25° west.
11	.....	3	....	.....	.....	Lat. by obs., 48° 59′ north.
12	.....	....	....	.....	.....	Dist. per log, long. 5° 3′.7 west.
300						
1	W. by S. ½ S..	3	....	W.NW . .	1½	*Friday, Dec.* 6.—Begins with moderate breezes and cloudy weather, a heavy sea from NW.
2	.....	3	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	.....	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	W.NW....	.....	
9	SW	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	.....	4	....	.....	.....	Midnight freshening breezes and cloudy weather, a heavy
12	.....	4	....	.....	.....	sea from the westward.
1	S. by W	3	....	.....	.....	At 6 a. m. weather variable; tacked ship to N. westward;
2	.....	3	....	.....	.....	pumps carefully attended to.
3	.....	3	....	.....	.....	
4	.....	3	....	.....	.....	
5	S.SE.....	3	....	.....	.....	
6	.....	3	....	SW	.....	
7	NW. by N.....	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	3	....	.....	.....	Ends much the same.
10	.....	3	....	.....	.....	Variation, 26° west.
11	N.NW	3	....	.....	.....	Lat. by D. R. 48° 39′ N.
12	.....	3	....	.....	.....	Dist. per log, 71 miles.

301 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	N. by W	3	4	W.NW....	2	*Saturday, Dec.* 7.—At noon strong breezes and rain, with
2	.....	3	4	.....	.....	a heavy sea running from the westward; at 2 p. m.
3	SW	3	4	.....	.....	tacked ship to the southward, and at 3.40 p. m. tacked
4	.....	3	4	.....	1½	ship to the northward; set jib; the wind freshening at
5	N. by W	4	....	.....	.....	the time, was obliged to keep the vessel under a heavy
6	.....	4	....	.....	.....	press of canvas to fetch out clear of Ushant; at 5 p. m.
7	.....	4	....	.....	2	Ushant light bore SE. by E. ½ E., distant 8 miles, from
8	.....	4	....	.....	.....	whence I take my departure; gale increasing, split jib,
9	NW. by N. ½ N.	3	....	.....	.....	sent it in, and bent another; at midnight strong gales
10	.....	3	....	.....	.....	and rainy, with heavy sea running from westward.
11	.....	3	....	.....	.....	
12	.....	3	....	.....	.....	
1	NW. by N	3	....	.....	.....	
2	.....	3	....	.....	.....	
3	.....	3	....	.....	.....	
4	.....	3	....	.....	.....	
5	.....	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	N.NW	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	3	....	.....	.....	Ends moderating, but cloudy.
10	.....	3	....	.....	.....	Variation, 25° westerly.
11	.....	3	....	.....	.....	Lat. by D. R., 49° 21′ north.
12	.....	3	....	.....	.....	Dist. per log, 63 miles from Ushant.
302						
1	NW. by N	2	5	W. by S...	2	*Sunday, Dec.* 8.—Begins with fresh breezes and stormy
2	.....	2	5	.....	.....	appearances, vessels under doubled reefed mainsail and
3	.....	2	5	.....	.....	singled reefed foresail and forestaysail; at 8 p. m.
4	.....	2	....	.....	.....	tacked ship, as pr. log.
5	NW. by W. ½ W	2	....	.....	.....	
6	.....	2	....	.....	.....	
7	W.NW	2	....	.....	.....	
8	.....	2	....	.....	.....	
9	S.SW.....	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	SW. by S....	2	....	.....	.....	
12	.....	2	....	.....	.....	Middle part squally.
1	SW. by 1.....	2	....	.....	.....	Latter part clear, with fresh breezes; at 7 a. m. tacked
2	.....	2	....	.....	.....	ship; served with lime juice and vinegar after the men
3	S. SW	2	....	.....	.....	having lived on salt provisions 10 days.
4	.....	2	....	.....	.....	
5	.....	2	....	.....	.....	
6	.....	2	....	.....	.....	
7	NW. by N	2	....	.....	.....	
8	.....	2	....	.....	.....	
9	.....	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	.....	2	....	.....	.....	Variation, 25° west.
12	.....	2	....	.....	.....	Lat. obs'd, 49° 35′ north.
303						
1	NW. by W....	2	....	W.SW....	2	*Monday, Dec.* 9.—At noon strong breezes and heavy sea
2	.....	2	....	.....	.....	running, ship laboring heavily, pumps carefully at-
3	.....	2	....	.....	.....	tended to; at 4 p. m. tacked ship to the southwestward.
4	.....	2	....	.....	.....	
5	S.SW.....	1	5	.....	.....	
6	.....	1	5	.....	.....	
7	.....	1	3	.....	.....	
8	.....	3	....	.....	.....	
9	.....	2	....	.....	.....	
10	.....	2	....	.....	.....	At 8 p. m. the Lizzard lights bearing NE. by E. ½ E.,
11	.....	2	....	.....	.....	distance about 15 miles; middle part fresh gales and
12	.....	2	....	.....	.....	raining.
1	S. by W. ½ W..	2	....	W.SW....	.....	
2	.....	2	....	.....	.....	
3	.....	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	.....	2	....	.....	.....	
6	.....	2	5	.....	.....	
7	NW. ½ W	2	5	.....	1	
8	.....	3	....	.....	.....	
9	.....	3	....	.....	.....	At 6 a. m. tacked ship to westward; ends pleasant; all
10	.....	3	....	.....	.....	hands at work repairing jib.
11	.....	3	....	.....	.....	Variation, 24° west.
12	.....	3	....	.....	.....	Lat. obs'd, 49° 23′ N.

304 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. by N	3	....	South	1	*Tuesday, Dec.* 10.—At noon fresh gales, with passing clouds; all required sail set by the wind.
2	.....	3	....	.....	1	
3	.....	3	....	.....	1	
4	.....	3	....	.....	1	
5	.....	3	....	.....	1	
6	.....	3	....	.....	1	
7	W. by S	4	1	.....	1	
8	.....	4	....	.....	1	
9	West	4	....	.....	1	
10	.....	4	....	.....	1	
11	.....	5	....	.....	1	
12	.....	5	....	.....	1	Middle part much the same.
1	.....	5	....	.....	1	In the morning light airs and a heavy sea, causing the vessel to rock heavy and sails to slat; carried away the reef-band and split the foresail.
2	.....	5	....	.....	1	
3	.....	3	....	.....	1½	
4	W.NW	3	....	.....	1½	
5	.....	3	....	.....	1½	
6	.....	3	....	.....	1½	
7	.....	3	....	.....	2	
8	.....	3	....	.....	2	
9	.....	3	....	.....	2	Ends do. do.
10	.....	3	....	.....	2	Pumps carefully attended to.
11	.....	3	....	.....	2	Variation, 25° west.
12	.....	3	....	.....	2	Lat. obs'd, 49 13.
305						
1	South	1	....	W.SW	.....	*Wednesday, Dec.* 11.—Commences with light airs and pleasant weather; all hands employed repairing foresail and jib; at 4.30 p. set foresail.
2	.....	1	....	.....	.....	
3	.....	1	....	.....	.....	
4	.....	1	....	.....	.....	
5	.....	1	....	.....	.....	
6	.....	1	....	.....	.....	
7	SW. by S	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	3	....	.....	.....	
10	S.SW	3	....	.....	.....	
11	.....	4	....	.....	.....	Middle part fresh gales, attended with rain; put one reef in foresail.
12	.....	4	....	.....	.....	
1	South	4	....	.....	.....	
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	W.NW	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	4	....	.....	.....	Ends with fresh gales and stormy weather; pumps carefully attended to.
10	.....	4	....	.....	.....	
11	.....	4	....	.....	.....	Variations, 25° west.
12	.....	4	....	.....	.....	Lat.
306						
1	W. by N	3	....	S. SW	1	*Thursday, Dec.* 12.—At noon increasing breezes, with a heavy sea running, close-reefed the foresail and handed the jib; at 8 p. m. stowed the mainsail; the storm increasing, set the storm-staysail on the mainmast.
2	.....	3	....	.....	1	
3	.....	3	....	.....	1	
4	.....	3	....	.....	1	
5	West	4	....	.....	1	
6	.....	4	....	.....	1	
7	.....	5	....	.....	1	
8	.....	5	....	.....	1	
9	W.NW	2	....	.....	3½	
10	.....	2	....	.....	3½	Middle part strong gales and stormy weather, vessel laboring heavy, pumps carefully attended to. At 2.30 a. m. made green light 1½ p't on lee bow; we being on the port tack, kept off; the other ship kept away at the same time, causing us to jibe ship suddenly, and in so doing carried away piece of monkey rail aft.
11	.....	3	....	.....	3½	
12	.....	3	....	.....	3½	
1	.....	2	5	.....	3½	
2	.....	2	5	.....	3½	
3	.....	2	5	.....	3½	
4	.....	2	5	.....	3½	
5	.....	3	5	.....	3½	
6	.....	3	5	.....	3½	
7	.....	4	5	.....	3½	
8	.....	4	5	.....	3½	
9	.....	3	5	.....	3½	
10	.....	3	5	.....	3½	
11	.....	3	5	.....	3½	Ends much the same.
12	.....	3	5	.....	3½	Lat. by D. R., 49 13.

307 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. by N	3	....	S. by W...	4	*Friday, Dec.* 13.—At noon strong gales, attended with heavy squalls and rain; a heavy sea, vessel shipping a great deal of water on deck, and at several times got a considerable in the cabin.
2	.....	3	....	.....	.....	
3	.....	3	....	.....	.....	
4	.....	3	....	.....	.....	
5	.....	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	3	....	.....	.....	
10	.....	3	....	.....	.....	
11	.....	3	....	.....	.....	Middle part variable, the wind changing suddenly from different points of the compass; had one cask of water stove by the sea. At 4 a. m. heavy rain squalls; the wind shifted suddenly to the NW., and blowed up a heavy gale.
12	.....	3	....	.....	.....	
1	.....	2	....	.....	.....	
2	.....	2	....	.....	.....	
3	.....	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	W.SW	5	....	NW	0	
6	.....	5	....	.....	0	
7	.....	6	....	.....	0	
8	.....	6	....	.....	0	
9	.....	7	....	.....	0	
10	.....	7	....	.....	0	Ends much the same, the vessel laboring heavy.
11	.....	7	....	.....	0	Variations, 25° west.
12	.....	7	....	.....	0	Lat. obs'd, 49 22.
308						
1	W.SW	5	....	NW	.....	*Saturday, Dec.* 14.—Begins with moderating gales and cloudy weather, all hands at work on ship's duty; bent jib, fitted pennants for main boom guys.
2	.....	5	....	.....	.....	
3	.....	5	....	.....	.....	
4	.....	5	....	.....	.....	
5	.....	5	....	.....	.....	
6	.....	5	....	.....	.....	
7	.....	5	....	.....	.....	
8	.....	5	....	N.NW	.....	
9	.....	5	....	.....	.....	
10	.....	5	....	.....	.....	Middle part pleasant; all drawing sail set before the wind; left the edge of soundings; the water turned darker colored.
11	.....	5	....	.....	.....	
12	.....	5	....	.....	.....	
1	.....	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	5	....	.....	.....	
6	.....	5	....	.....	.....	
7	.....	5	....	.....	.....	
8	.....	5	....	.....	.....	
9	.....	4	....	.....	.....	
10	.....	4	....	.....	.....	Ends pleasant; pumps carefully attended to.
11	.....	4	....	.....	.....	Variation, 25° westerly.
12	.....	4	....	.....	.....	Lat. obs'd, 47 51.
309						
1	W.SW	4	....	North	0	*Sunday, Dec.* 15.—At noon moderate breezes and pleasant, all possible sail set; discovered the chronometer, as supposed, to be erroneous, which obliged us to sail the vessel by dead reckoning; p. m., served out the people's provisions, lime juice, sugar, &c., according to the act of Parliament.
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	.....	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	2	....	.....	.....	
10	.....	2	....	N.NE	.....	
11	.....	1	....	.....	.....	
12	.....	1	....	.....	.....	Middle and latter part light airs and pleasant.
1	.....	1	....	.....	.....	
2	.....	1	....	.....	.....	
3	.....	1	....	.....	.....	
4	.....	1	....	.....	.....	
5	.....	1	....	.....	.....	
6	.....	1	....	.....	.....	
7	.....	1	....	.....	.....	
8	.....	1	....	.....	.....	
9	.....	1	....	.....	.....	
10	.....	1	....	.....	.....	Variation, 2¼ p'ts.
11	.....	1	....	.....	.....	Lat. by D. R., 47° 16′ north.
12	.....	1	....	.....	.....	Longt. by D. R., 13° 13′ west.

310 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W.SW.....	2	4	NE.....	.....	*Monday, Dec.* 16.—Commences with light airs and baffling, all drawing sail set before the wind.
2	.....	2	4	.....	.....	
3	.....	2	4	.....	.....	
4	.....	2	4	.....	.....	
5	.....	2	....	.....	.....	
6	.....	2	....	.....	.....	
7	.....	2	....	.....	.....	
8	.....	2	....	.....	.....	
9	.....	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	.....	2	....	.....	.....	
12	.....	2	....	.....	.....	Middle part light airs and passing showers.
1	.....	2	....	SE.....	.....	
2	.....	2	....	.....	.....	
3	.....	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	.....	1	4	.....	.....	
6	.....	1	4	.....	.....	Ends much the same.
7	.....	1	4	.....	.....	Variations, 2¼ p'ts west.
8	.....	1	4	.....	.....	Diff. lat'd, 43′.
9	.....	3	....	.....	.....	Lat. by D. R., 46 33 north.
10	.....	3	....	.....	.....	Lat. by obs'n, 46 33 north.
11	.....	4	....	.....	.....	Difference long't., 54.
12	.....	4	....	.....	.....	Long't. by D. R., 14° 07′ west.
311						
1	W.SW	4	....	East.....	0	*Tuesday, Dec.* 17.—Begins with freshening breezes and cloudy weather.
2	.....	4	....	.....	.....	
3	.....	5	4	.....	.....	
4	.....	5	4	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	
11	.....	6	....	.....	.....	Middle part much the same; all sail set before the wind, crew employed variously.
12	.....	6	....	.....	.....	
1	.....	6	4	.....	.....	
2	.....	6	4	.....	.....	
3	.....	6	4	.....	.....	
4	.....	6	4	.....	.....	
5	.....	6	4	.....	.....	
6	.....	6	4	.....	.....	Ends much the same.
7	.....	6	4	.....	.....	Variation, 2¼ points west.
8	.....	6	4	.....	.....	Diff. lat., 1.07 mile.
9	.....	6	4	.....	.....	Lat. by D. R., 44 46 north.
10	.....	6	4	.....	.....	Lat. obs'd, 44 42 north.
11	.....	6	4	.....	.....	Difference long't, 155 miles.
12	.....	6	4	.....	.....	Long't. by D. R., 16 22 west.
312						
1	W.SW.....	6	4	E.NE.....	.....	*Wednesday, Dec.* 18.—Begins with moderate breezes and pleasant weather; all sail set, going free.
2	.....	6	4	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	6	4	.....	.....	
6	.....	6	4	.....	.....	
7	.....	6	4	East	.....	
8	.....	6	4	.....	.....	
9	.....	7	....	.....	.....	
10	.....	7	....	.....	.....	
11	.....	7	....	.....	.....	
12	.....	7	....	.....	.....	Middle part much the same.
1	.....	7	....	.....	.....	
2	.....	7	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	7	....	.....	.....	
6	.....	7	....	.....	.....	Variation, 1¼ p't west, ends the same.
7	.....	7	....	.....	.....	Diff. lat. by D. R., 144 miles.
8	.....	7	....	.....	.....	Lat. by D. R., 42 38.
9	.....	6	4	.....	.....	Lat. obs'v'd, 42 23.
10	.....	6	4	.....	.....	Diff. long't. by D. R., 146.
11	.....	6	4	.....	.....	Long. by D. R., 18 49.
12	.....	6	4	.....	.....	Dist. per log., 164 miles.

313 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	SW. by W....	6	....	East.....	0	*Thursday, Dec.* 19.—Commences with moderate breezes
2	.....	6	....	.....	.....	and flying clouds; all possible sail set, going free.
3	.....	6	....	.....	.....	
4	.....	6	4	.....	.....	
5	.....	6	4	.....	.....	
6	.....	6	4	.....	.....	
7	.....	6	4	.....	.....	
8	.....	6	....	.....	.....	
9	.....	7	....	.....	.....	
10	.....	7	....	.....	.....	
11	.....	8	....	.....	.....	
12	.....	8	....	.....	.....	Middle part fresh breezes, and passing showers.
1	.....	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	A. m., do. do.
7	.....	6	....	.....	.....	Variation, 2¼ p'ts west.
8	.....	6	....	.....	.....	Lat. obs'd, 40° 10.
9	.....	6	....	E.SE.....	.....	Dif. lat. 2° 12′.
10	.....	6	....	.....	.....	Lat. by D., 40° 11′ north.
11	.....	6	....	.....	.....	Dif. long't., 1° 45′.
12	.....	6	....	.....	.....	Long't. by D. R., 20° 34′ west.
314						
1	SW. by W....	7	....	.....	.....	*Friday, Dec.* 20.—Commences with moderate breezes and
2	.....	7	4	.....	.....	passing showers; all sail going freer; crew variously
3	SW.....	7	4	.....	.....	employed; pumps regularly attended to.
4	.....	7	4	.....	.....	
5	.....	7	4	.....	.....	
6	.....	7	4	.....	.....	
7	.....	8	....	.....	.....	
8	.....	8	....	.....	.....	
9	.....	8	....	.....	.....	
10	.....	8	....	.....	.....	
11	.....	7	4	.....	.....	
12	.....	7	4	.....	.....	Middle part the same.
1	.....	7	....	.....	.....	
2	.....	7	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	7	....	.....	.....	
6	.....	7	....	.....	.....	Ends with fresh breezes and thick cloudy weather.
7	.....	7	....	.....	.....	Variation, 2¼ p't west.
8	.....	7	....	.....	.....	Dif. lat., 2° 50′.
9	.....	7	....	.....	.....	Lat. by R., 37 21.
10	.....	7	8	.....	.....	Dif. long't., 1° 23.′
11	.....	8	....	.....	.....	Long't. by R., 21° 57.′
12	.....	8	....	.....	.....	Sun obscure, no observations.
315						
1	SW.....	7	4	E.NE.....	.....	*Saturday, Dec.* 21.—Begins with fresh breezes and pleas
2	.....	7	....	.....	.....	ant weather; all drawing sail set, going free.
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	8	....	.....	.....	
6	.....	8	....	.....	.....	
7	SW. by S. ½ S.	7	4	NE.....	.....	
8	.....	7	4	.....	.....	
9	.....	6	4	.....	.....	
10	.....	6	4	.....	.....	
11	.....	6	4	.....	.....	
12	.....	6	4	.....	.....	Middle part much the same.
1	SW.....	7	....	.....	.....	
2	.....	7	....	.....	.....	
3	.....	6	4	.....	.....	
4	SW. by S. ½ S.	6	4	.....	.....	
5	.....	5	....	.....	.....	Ends do. do.
6	.....	5	....	.....	.....	Variation, 2¼ p't west.
7	.....	5	....	.....	.....	Lat. obs'd, 35° 02′.
8	.....	5	....	.....	.....	Dif. lat. by R., 2° 27′.
9	.....	5	....	.....	.....	Lat. by R., 34° 54′.
10	SW. ½ W.....	5	....	.....	.....	Dif. long't., 42′.
11	SW. ¼ W.....	5	....	.....	.....	Long't. by D. R., 22° 39′.
12	.....	....	....	.....	.....	Dist. per log, 153 miles.

316 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Leeway.	Remarks.
1	SW. by W....	5	....	SE. by E..	0	*Sunday, Dec.* 22.—P. m. clear; pleasant, moderate breezes; all possible sail set; the watch employed variously, making burgee, &c.
2	.....	5	....	.....	.....	
3	.....	5	....	.....	.....	
4	.....	4	4	East	.....	
5	.....	4	4	.....	.....	
6	.....	5	....	.....	.....	
7	.....	5	....	.....	.....	
8	.....	6	....	.....	.....	
9	W.SW. ½ W ..	6	....	.....	.....	
10	.....	5	....	.....	.....	
11	.....	5	4	.....	.....	
12	.....	4	4	.....	.....	Middle part light, baffling airs.
1	.....	4	4	.....	.....	
2	.....	4	4	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	W.SW	4	....	.....	.....	Ends with light steady breezes and pleasant.
6	.....	4	....	.....	.....	Variations, 2 p'ts west.
7	.....	4	....	.....	.....	Lat. obs'd, 33° 43′.
8	.....	4	....	.....	.....	Dif. lat. by D. R., 1° 24′.
9	SW. by W	4	....	.....	.....	Lat. by D. R., 33° 38′.
10	.....	4	....	.....	.....	Dif. long't., 1° 28′.
11	.....	4	....	.....	.....	Long't., 24 07.
12	.....	4	....	.....	.....	Dist. per log, 112 miles.
317						
1	W.SW	6	....	E.SE	.....	*Monday, Dec.* 23.—Begins with fresh breezes and cloudy weather; all sail set, going free.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	8	....	.....	.....	
8	.....	8	....	.....	.....	
9	.....	8	....	.....	.....	
10	.....	8	....	.....	.....	
11	.....	8	....	.....	.....	
12	.....	7	....	East	.....	Middle part much the same; crew employed variously.
1	.....	7	....	.....	.....	
2	.....	7	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	8	....	.....	.....	
5	.....	7	....	.....	.....	Ends do. do.
6	.....	7	....	.....	.....	Variation, 2 p'ts west.
7	.....	7	....	.....	.....	Lat. obs'd, 31° 30′.
8	.....	7	....	.....	.....	Dif. of lat. by D. R., 1° 56′.
9	.....	6	....	.....	.....	Lat. " 31° 47′.
10	.....	6	....	.....	.....	Dif. long't. " 2° 17′.
11	.....	5	....	.....	.....	Long't. " 26 24.
12	.....	5	....	.....	.....	Dist. per log., 164 miles.
318						
1	W.SW	4	....	East	.....	*Tuesday, Dec.* 24.—Begins with moderate and clear weather; at 4 p. m. passed a bark standing to the northward, showing long't. 23° 30′ west; sch'r's long't. 28° 36′ west.
2	.....	4	....	.....	.....	
3	.....	4	4	.....	.....	
4	.....	3	....	.....	.....	
5	.....	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	W. by S. ½ S ..	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	West.....	1	4	.....	.....	
12	.....	1	....	.....	.....	Middle part light airs and clear weather.
1	.....	1	....	.....	.....	
2	.....	1	....	.....	.....	
3	.....	1	....	.....	.....	
4	.....	1	....	.....	.....	
5	.....	1	....	.....	.....	
6	.....	1	....	.....	.....	Ends with moderate breezes and pleasant; all sail set.
7	.....	1	....	.....	.....	Lat. obs'd, 30° 41′.
8	.....	1	....	.....	.....	Dif. lat., 1° 4′.
9	West	4	....	.....	.....	Lat. by D. R. 30° 26.
10	.....	4	....	.....	.....	Dif. long't., 1 48.
11	.....	4	....	.....	.....	Long't. by D. R., 28° 12.
12	.....	4	....	.....	.....	Dist. per log., 116 miles.

319 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. by S.	5	....	S. by E	.....	*Wednesday, Dec.* 25.—This day begins with squally, rainy weather, and light baffling breezes.
2	.....	5	....	.....	.....	
3	.....	5	....	.....	.....	
4	.....	5	....	.....	.....	
5	.....	5	....	.....	.....	
6	.....	5	....	SW	.....	
7	W.NW	5	....	.....	.....	
8	.....	5	....	.....	.....	
9	W. by N	3	4	.....	.....	
10	.....	3	....	.....	.....	
11	.....	4	....	.....	.....	Middle part pleasant; all sail set by the wind; the day being Christmas, no work was done.
12	.....	4	....	.....	.....	
1	.....	4	4	.....	.....	
2	.....	4	....	.....	.....	
3	.....	3	....	.....	.....	
4	.....	3	4	.....	.....	Latter part, at 5 a. m., the vessel on port tack, got aback in a squall, and paid off on starboard tack: the remainder of the day pleasant; sun obscured, no observation.
5	W.NW	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	SW. by S	3	....	.....	.....	Dif. lat. by D. K., 52′.
8	.....	3	....	.....	.....	Lat. " " 29° 49′.
9	South	3	....	W.SW	.....	Dif. long't., 1° 07′.
10	.....	3	4	.....	.....	Long't. " 29 19.
11	.....	4	....	.....	.....	Variation, 2 p'ts west.
12	.....	2	....	.....	.....	Dist. per log, 98 miles.
320						
1	W. by S. ½ S	4	4	NW	.....	*Thursday, Dec.* 26.—Commences with variable winds and passing showers.
2	.....	4	4	.....	.....	
3	.....	5	....	.....	.....	
4	.....	5	....	.....	.....	
5	.....	7	....	.....	.....	
6	.....	7	....	.....	.....	
7	W. SW	7	4	.....	.....	
8	.....	7	4	.....	.....	
9	.....	8	....	.....	.....	
10	.....	8	....	.....	.....	
11	.....	8	4	.....	.....	Midnight, fresh breezes and clear weather; all possible sail set, going free.
12	.....	8	4	.....	.....	
1	.....	8	....	.....	.....	
2	.....	8	....	.....	.....	
3	.....	7	4	.....	.....	
4	.....	7	4	.....	.....	
5	.....	8	....	.....	.....	
6	.....	8	....	.....	.....	
7	SW. by W. ½ W	8	....	.....	.....	
8	.....	8	....	.....	.....	
9	.....	7	4	.....	.....	Ends do. do.
10	.....	7	4	.....	.....	Variations, 1¾ p'ts west.
11	SW. by W	7	4	.....	.....	Lat. obs'd, 28 13.
12	.....	7	4	.....	.....	Dist. per log, 174 miles.
321						
1	SW. by W. ½ W	7	....	NW	0	*Friday, Dec.* 27.—Commences with fresh breezes and clear weather; all sail set, going free; crew employed variously.
2	.....	7	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	7	....	.....	.....	
6	.....	7	....	.....	.....	
7	W. by S. ½ S	7	....	.....	.....	
8	.....	7	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	
11	.....	5	....	.....	.....	
12	.....	5	....	.....	.....	Middle part, light airs and clear by spells.
1	.....	5	....	.....	.....	
2	.....	5	....	.....	1 pt.	
3	.....	5	....	.....	1	
4	.....	5	....	.....	1	
5	.....	3	....	.....	1	
6	.....	3	....	.....	1	
7	S. SW	2	....	.....	1	
8	.....	2	....	.....	.....	
9	.....	0	....	.....	.....	Ends calm; lowered the sails down to keep them from slatting.
10	.....	0	....	.....	.....	
11	.....	0	....	Calm	.....	Variations, 2 pts. west.
12	.....	0	....	.....	.....	Lat. obs'd, 26 48.

322 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1		0				*Saturday, Dec.* 28.—Commences with light airs and calm
2		0				spells, with cloudy horizon.
3	SW. by W.	2		SW. by S.	1 pt.	
4		2			1	
5		3			1	
6		3			1	
7	W. by N.	3			1	
8		3	4		1	
9	West.	5	4		1	
10		5			1	
11		6			1	Middle part, fresh breezes, with passing showers; all sail
12		6			1	set by the wind.
1	W. ¼ N.	7			1	
2		7			1	
3		7	4		1	
4		7	4		1	
5		7			1	
6		7			1	
7	W. by N.	6	4		1	
8		6	4		1	
9	W. ¼ N.	7			1	
10		7			1	
11		7			1	P. m. ends with fresh breezes and stormy appearances.
12		7			1	Lat. obs'd, 26° 20′.
323						
1	NW. by W. ¼ W.	4	4	SW.	1 pt.	*Sunday, Dec.* 29.—P. m. commences with fresh breezes
2		4	4		1	and squally weather; at 4 p. m. put one reef in fore
3		4	4		1	and mainsail, handed light sails, wore ship to the south
4		4			0	ward.
5	S. SW.	4		West.		
6		4				
7		4				
8		4				
9	W. SW.	4				
10		4				
11		4				
12		4				Midnight, pleasant; made sail.
1		2				
2		2				
3	W. by S.	2	4			
4		2	4			
5		2	4			
6		2	4			
7		2				
8		2				
9	West.	2	4			Broached second bbl. beef.
10		2	4			Ends with light airs and pleasant weather; one ship in
11		2				sight steering same way.
12		2				Lat. obs'd.
324						
1	West.	1		South		*Monday, Dec.* 30.—Begins with light airs and a heavy
2		1				swell on; handed the fore and aft sails to keep them
3		1				from slatting.
4		1				
5		2				
6		2				
7		2				
8		2				
9				Calm.		
10						
11						
12						Middle part calm.
1						
2						
3						
4						
5						
6						
7	West.	1		North		
8		1				
9		1				
10		1				A. m. light airs and cloudy; crew employed variously.
11		1				Variation, 1¼ pts. west.
12		1				Lat. obs'd, 25 26.

325 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. ¼ S	0	....	Calm	.....	*Tuesday, Dec.* 31.—Begins with light airs and calm spells, with cloudy weather.
2	.....	0	....	.....	.....	
3	.....	1	....	Variable	.....	
4	.....	1	....	.....	.....	
5	W. by N	1	....	.....	.....	
6	.....	1	....	.....	.....	
7	.....	1	....	.....	.....	
8	.....	1	....	.....	.....	
9	.....	1	....	.....	.....	
10	.....	1	....	.....	.....	
11	.....	1	....	.....	.....	
12	.....	1	....	.....	.....	Middle part the same.
1	.....	0	....	.....	.....	
2	.....	0	....	.....	.....	
3	.....	0	....	.....	.....	
4	.....	0	....	.....	.....	
5	.....	0	....	.....	.....	
6	.....	0	....	.....	.....	
7	.....	0	....	.....	.....	
8	NW	1	....	.....	.....	
9	.....	1	....	.....	.....	Ends do. One seaman laid up with a sore leg.
10	.....	2	....	.....	.....	Variation, 1¼ pts. westerly.
11	.....	2	....	.....	.....	Lat. obs'd, 25 23.
12	.....	2	....	.....	.....	Dist. per log., 21 miles.
326						
1	S. SE	2	4	SW	.....	*Wednesday, Jan.* 1, 1862.—Commences with light airs and cloudy weather; one ship in sight steering the same way; at 2 p. m. tacked ship.
2	.....	2	4	.....	.....	
3	.....	2	4	.....	.....	
4	W. NW	2	4	.....	.....	
5	.....	2	4	.....	.....	
6	.....	2	4	.....	.....	
7	.....	2	4	.....	.....	
8	.....	2	4	.....	.....	
9	.....	3	4	.....	.....	
10	.....	3	4	.....	.....	
11	.....	3	....	.....	.....	
12	.....	3	....	.....	.....	Middle part moderate breezes and rainy weather.
1	West	4	....	.....	.....	
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	West	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	4	4	.....	.....	
10	.....	4	4	.....	.....	Ends the same.
11	.....	4	4	.....	.....	Variation, 1¼ pts. westerly.
12	.....	4	4	.....	.....	Lat. obs'd, 24 46.
327						
1	West	6	4	S. by N	0	*Thursday, Jan'y* 2.—Commences with moderate breezes and pleasant; all sail set, going free.
2	.....	6	4	.....	.....	
3	.....	6	4	.....	.....	Exchanged longitude with a ship steering to N. and eastward.
4	.....	6	4	.....	.....	
5	W. ¼ S	7	4	.....	.....	
6	.....	7	4	.....	.....	
7	.....	7	4	.....	.....	
8	.....	7	4	.....	.....	
9	.....	6	4	.....	.....	
10	.....	6	4	.....	.....	
11	West	6	4	.....	.....	
12	.....	6	....	.....	.....	Middle part rainy.
1	W. by N	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	W. NW	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	NW	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	1	....	.....	.....	
10	.....	1	....	.....	.....	A. m., light airs and pleasant; variation, 1¼ pts. west.
11	.....	1	....	.....	.....	Lat. by D. R., 25[illegible]
12	.....	[illegible]	....	.....	.....	Lat. obs'd, [illegible]

328 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. ½ S	4	....	NW.	.....	*Friday, Jan'y* 3, 1862.—Begins with moderating breezes and a heavy sea from NW.; all sail set by the wind.
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	.....	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	2	4	.....	.....	
10	W. by N	2	....	.....	.....	
11	.....	....	....	Calm	.....	
12	.....	....	....	.....	.....	
1	.....	....	....	.....	.....	
2	.....	....	....	.....	.....	
3	.....	....	....	.....	.....	A. m., latter part calm, handed all sails, crew employed variously.
4	.....	....	....	.....	.....	
5	.....	....	....	.....	.....	
6	.....	....	....	.....	.....	
7	.....	....	....	.....	.....	
8	.....	....	....	.....	.....	
9	.....	....	....	.....	.....	
10	.....	....	....	.....	.....	Variation, 1¼ pts. west.
11	.....	....	....	.....	.....	Lat. obs'd., 23° 48'.
12	.....	....	....	.....	.....	Dist. per log., 28 miles.
329						
1	W. ½ S	0	....	E. SE	.....	*Saturday, Jan'y* 4.—Commences with calm and pleasant weather, with a heavy sea running from the NW., causing the vessel to roll and labor heavy; watch employed variously.
2	.....	0	....	.....	.....	
3	.....	0	....	.....	.....	
4	.....	0	....	.....	.....	
5	.....	0	....	.....	.....	
6	.....	0	....	.....	.....	
7	.....	0	....	.....	.....	
8	.....	0	....	.....	.....	
9	.....	1	....	.....	.....	
10	.....	1	....	.....	.....	
11	.....	1	....	.....	.....	
12	.....	1	....	.....	.....	Midnight, light airs; made sail before the wind.
1	.....	2	....	.....	.....	
2	.....	2	....	.....	.....	
3	.....	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	.....	2	....	.....	.....	
6	.....	2	....	.....	.....	
7	.....	2	....	.....	.....	
8	.....	2	....	.....	.....	
9	.....	4	....	.....	.....	
10	.....	4	....	.....	.....	A. m., freshening breezes, pleasant weather.
11	.....	4	....	.....	.....	Variation, 1¼ pts. west.
12	.....	4	4	.....	.....	Lat. obs'd, 23° 26.
330						
1	W. SW	4	4	East	.....	*Sunday, Jan'y* 5.—This day fresh breezes and pleasant weather; all sail set before the wind, a heavy sea continues to heave from NW.
2	.....	4	4	.....	.....	
3	.....	4	4	.....	.....	
4	.....	4	4	.....	.....	
5	.....	4	4	.....	.....	
6	.....	4	4	.....	.....	
7	.....	5	....	.....	.....	
8	.....	5	....	.....	.....	
9	.....	5	....	.....	.....	
10	.....	5	....	.....	.....	
11	.....	4	....	.....	.....	
12	.....	4	....	.....	.....	Midnight, the same.
1	.....	4	....	.....	.....	
2	.....	4	....	.....	.....	
3	.....	5	....	.....	.....	
4	.....	5	....	.....	.....	
5	.....	5	....	.....	.....	
6	.....	5	....	.....	.....	
7	.....	4	4	.....	.....	
8	.....	4	4	.....	.....	
9	.....	5	....	.....	.....	
10	.....	5	....	.....	.....	Ends the same; saw two ships standing to the northward.
11	.....	5	....	.....	.....	Lat. obs'd, 22 25.
12	.....	5	....	.....	.....	Dist. per log., 112 miles.

331 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	SW. by S.....	6	....	East	.....	*Monday, Jan'y 6.*—Commences with moderate breezes and pleasant weather; all sail set, going free; a heavy swell heaving from the NW.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	5	4	.....	.....	
10	.....	5	4	.....	.....	
11	.....	5	4	.....	.....	
12	.....	5	4	.....	.....	Midnight, moderating breezes and passing showers.
1	.....	5	4	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	Latter part pleasant; variation, one pt. west.
11	.....	6	....	.....	.....	Lat. by D. R., 22 08.
12	.....	6	....	.....	.....	Dist. per log., 141 miles.
332						
1	W. by S.....	6	....	East	.....	*Tuesday, Jan'y 7.*—P. m. fresh breezes and pleasant weather; all sail set before the wind; crew variously employed.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	
11	.....	6	....	.....	.....	
12	W. by S. ½ S...	6	....	.....	.....	Middle part squally weather.
1	.....	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	A. m. pleasant; saw a brig steering the same way.
10	.....	6	....	.....	.....	Variation, ¾ pt. west.
11	.....	6	....	.....	.....	Lat. obs'd, 19 58 north.
12	.....	6	....	.....	.....	Dist. per log., 146 miles.
333						
1	W. by S	6	....	East	0	*Wednesday, Jan.* 8.—P. m. commences with fresh breezes and weather pleasant; all drawing sail set, going free.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	
11	.....	6	....	.....	.....	
12	.....	6	....	.....	.....	Continues the same.
1	.....	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	Ends do. do.
9	.....	6	....	.....	.....	Pumps carefully attended to.
10	.....	6	....	.....	.....	Variation, ¾ pt. west.
11	.....	6	....	.....	.....	Lat. obs'd., 19 13.
12	.....	.....	....	.....	.....	Dist. per log., 146 miles.

334 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. by S. ½ S...	6	....	East	.....	*Thursday, Jan'y* 9.—The weather continues pleasant; all possible sail set, going free.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	5	4	.....	.....	
11	.....	5	4	.....	.....	
12	.....	5	4	.....	.....	Middle part moderating, with passing clouds.
1	.....	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	Latter part pleasant; all hands employed tarring the rigging.
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	Variation, ¼ pt. west.
11	.....	6	....	.....	.....	Lat. obs'd., 18 45.
12	.....	6	....	.....	.....	Dist. per log., 142 miles.
335						
1	West.....	6	....	E. by N....	.....	*Friday, Jan'y* 10.—All this day pleasant, with strong breezes; all possible sail set, going free; crew employed scraping and tarring.
2	.....	6	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	5	4	.....	.....	
6	.....	5	4	.....	.....	
7	.....	7	....	.....	.....	
8	.....	7	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	
11	.....	7	....	.....	.....	
12	.....	7	....	.....	.....	Middle part fresh gales and cloudy weather.
1	W. ½ S	7	....	.....	.....	
2	.....	7	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	7	....	.....	.....	
6	.....	7	....	.....	.....	
7	.....	7	....	.....	.....	
8	.....	7	....	.....	.....	
9	.....	7	....	.....	.....	
10	.....	7	....	.....	.....	
11	.....	7	....	.....	.....	Variation, ¼ pt. west.
12	.....	7	....	.....	.....	Lat. obs'd, 18 24.
336						
1	W. ½ S	6	4	East	.....	*Saturday, Jan'y* 11.—Commences with fresh breezes and cloudy weather; all possible sail set before the wind; at 2 p. m. saw a barkantine showing the American flag, steering SW.
2	.....	6	4	.....	.....	
3	.....	6	4	.....	.....	
4	.....	6	4	.....	.....	
5	.....	6	4	.....	.....	
6	.....	6	4	.....	.....	
7	.....	6	4	.....	.....	
8	.....	6	4	.....	.....	
9	.....	7	....	.....	.....	
10	.....	7	....	.....	.....	
11	.....	7	....	.....	.....	At 11.30 p. m. squally weather, attended with passing showers; handed mainsail.
12	.....	7	....	.....	.....	
1	.....	6	....	.....	.....	
2	.....	6	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	6	....	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	....	.....	.....	
10	.....	6	....	.....	.....	
11	.....	6	....	.....	.....	Pumps carefully attended to.
12	.....	6	....	.....	.....	Variation, ¼ pt. west, 17 48 north.

337 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. ¼ S	6	4	East		*Sunday, Jan'y* 12.—P. m. fresh breeze and pleasant
2		6	4			weather; all sail set before the wind; the watch em-
3		6	4			ployed cleaning ship.
4		6	4			
5		6	4			
6		6	4			
7		6	4			
8		6	4			
9		5				
10		5				
11		5				
12		5				Continues pleasant.
1		5				
2		5				
3		5				
4		5				
5		5				
6		5				
7		5				
8		5				
9		5				
10		5				Ends pleasant; pumps carefully attended to.
11		5				Variation, ¼ pt. west.
12		5				Lat. obs'd, 17 04.
339						
1	W. ¼ S	5		East		*Monday, Jan'y* 13.—The weather continues pleasant, with
2		5				moderate breezes; split the mainsail, took it in and re-
3		5				paired it.
4		5				
5		5				
6		5				
7		5				
8		5				
9		5				
10		5				
11		5				
12		5				Middle part squally.
1		5				
2		5				
3		5				
4		5				
5		5				
6		5				
7		5				
8		5				
9		5				
10		5				Latter part pleasant.
11		5				Variation, none.
12		5				Lat. obs'd, 16° 51'.
340						
1	W. ¼ S	5	4			*Tuesday, Jan'y* 14.—Commences with fresh breezes and
2		5	4			squally weather, attended with passing showers of rain.
3		5	4			
4		5	4			
5		5	4			
6		5	4			
7		5	4			
8		5	4			
9		5	4			
10		5	4			
11		5	4			
12		5	4			
1		6				Middle and latter parts fresh breezes and pleasant; all
2		6				sail set, going free.
3		6				
4		6				
5		7				
6		7				
7		7				
8		7				
9		7				
10		6				
11		5				No variation.
12		5				Lat. obs'd.

341 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	W. by N	7	4	E. by N		*Wednesday, Jan'y* 15.—P. m. fresh breezes and pleasant weather; all possible sail set before the wind.
2		7	4			
3		7	4			
4		7	4			
5		7	4			
6		7	4			
7		7	4			
8		7	4			
9		7	4			
10		7	4			
11		7	4			
12		7	4			At 2 a. m. made the island of Dezreardar, bearing SW. 18 miles, and at 7. 30 past the NE. pt. of Guadaloup.
1	W. ¼ N	7	4			
2		7	4			
3		7	4			
4		7	4			
5		7	4			
6		7	4			
7		7	4			
8		7	4			
9		7	4			This day ends with squally weather and fresh breezes;
10		7	4			at noon the island of Mt. Surat bore NE. by E. 12 miles.
11		7	4			
12		7	4			Lat. obs'd, 16° 30′ north.
342						
1	W. by N	9	....	E. by N		*Thursday, Jan'y* 16.—Commences with fresh breezes and passing squalls; at 12 m. was struck by a heavy squall, which split fore-topsail and squaresail.
2		9	....			
3		9	....			
4		9	....			
5		9	....			
6		9	....			
7		9	....			
8		9	....			
9		9	....			
10		9	....			
11		9	....			
12		9	....			Middle part continues the same.
1		9	....			
2		9	....			
3		9	....			
4		9	....			
5		9	....			
6		9	....			
7		9	....			
8		9	....			
9		9	....			
10		9	....			Ends with fresh breezes and flying clouds; repaired and
11		9	....			set fore-topsail.
12		9	....			Lat. obs'd.
343						
1	W. by N.	8	....	E. by N.		*Friday, Jan'y* 17.—This day pleasant weather and fresh breezes; all sail set before the wind.
2		8	....			
3		8	....			
4		8	....			
5		8	4			
6		8	4			
7		8	4			
8		8	4			
9		8	4			
10		8	4			
11		8	4			Continues pleasant; at 12. 30 saw the island of Alto Villo,
12		8	4			bearing N. by E. 18 miles.
1		8	....			
2		8	....			
3		8	....			
4		8	....			
5		8	....			
6		8	....			
7		8	....			
8		8	....			
9		8	....			
10		8	....			Latter part pleasant.
11		8	....			Variation, ¼ pt. east.
12		8	....			Lat. obs'd, 17 10.

344 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	West.	9	....	East	.....	*Saturday, Jan'y* 18.—This day fresh breezes and pleasant weather; all sail set before the wind.
2	.....	9	....	.....	.....	
3	.....	9	....	.....	.....	
4	.....	9	....	.....	.....	
5	.....	9	....	.....	.....	
6	.....	9	....	.....	.....	
7	.....	9	4	.....	.....	
8	.....	9	4	.....	.....	
9	.....	9	4	.....	.....	
10	.....	9	4	.....	.....	
11	.....	9	4	.....	.....	
12	.....	9	4	.....	.....	
1	.....	9	4	.....	.....	In the morning saw Cape Tiberoon, (Jamaica,) bearing NE., dist. 30 miles.
2	.....	9	....	.....	.....	
3	.....	9	....	.....	.....	
4	.....	9	....	.....	.....	
5	.....	9	....	.....	.....	
6	.....	9	....	.....	.....	
7	.....	9	....	.....	.....	
8	.....	9	....	.....	.....	
9	.....	9	....	.....	.....	
10	.....	9	....	.....	.....	" "
11	.....	9	....	.....	.....	Ends pleasant.
12	.....	9	....	.....	.....	Lat. obs'd, 17 09.
345						
1	W. NW.	8	....	East	.....	*Sunday, Jan'y* 19.—This day commences with fresh breezes and pleasant weather; all possible sail set, going free.
2	.....	8	....	.....	.....	
3	.....	6	....	.....	.....	
4	.....	6	....	.....	.....	
5	.....	5	4	.....	.....	
6	.....	5	....	.....	.....	
7	.....	5	....	.....	.....	
8	.....	5	....	.....	.....	
9	.....	5	....	.....	.....	
10	.....	5	....	.....	.....	
11	.....	5	....	.....	.....	
12	.....	5	....	.....	.....	Middle part quite moderate, yet pleasant.
1	.....	5	....	.....	.....	
2	.....	5	....	.....	.....	
3	.....	5	....	.....	.....	
4	.....	5	....	.....	.....	
5	.....	4	4	.....	.....	
6	.....	4	4	.....	.....	
7	.....	4	4	.....	.....	
8	.....	5	....	.....	.....	
9	.....	5	....	.....	.....	
10	.....	5	....	.....	.....	
11	.....	5	....	.....	.....	Ends do. do.
12	.....	5	....	.....	.....	Lat. obs'd, 18° 16'.
346						
1	W. by N	4	....	East	.....	*Monday, Jan'y* 20.—Commences with moderate breezes and flying clouds; all drawing sails set before the wind.
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	.....	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	4	....	.....	.....	
10	.....	4	....	.....	.....	
11	.....	4	....	.....	.....	
12	.....	4	....	.....	.....	At 6. 30 Morant Point, (Jamaica,) bore south 20 miles.
1	.....	4	....	.....	.....	
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	.....	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	4	....	.....	.....	
10	.....	4	....	.....	.....	Latter part pleasant; at 2. 30 the northernmost pt. of Jamaica bore south 10 miles.
11	.....	4	....	.....	.....	
12	.....	....	....	.....	.....	Lat. obs'd, 18 36.

347 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	West	7	....	E. SE	.....	*Tuesday, Jan'y* 21.—Commences with fresh breezes and
2	.....	7	....	.....	.....	pleasant weather; vessel keeping the land ahead, and
3	.....	6	....	.....	.....	running along to the westward on the N. side of
4	.....	6	....	.....	.....	Jamaica.
5	.....	6	....	.....	.....	
6	.....	6	....	.....	.....	
7	.....	3	....	.....	.....	
8	.....	3	....	.....	.....	
9	.....	2	4	.....	.....	
10	.....	2	4	.....	.....	
11	.....	2	4	.....	.....	
12	.....	2	4	.....	.....	Middle part pleasant, with light breezes.
1	W. ½ N	2	4	.....	.....	
2	.....	2	4	.....	.....	
3	.....	2	4	.....	.....	
4	.....	2	4	.....	.....	
5	.....	3	4	.....	.....	
6	.....	3	4	SE	.....	
7	.....	3	4	.....	.....	
8	.....	3	4	.....	.....	
9	.....	3	4	.....	.....	
10	.....	3	4	.....	.....	At 11. 30, Cape Negrill, N. pt. Jamaica, bore SE. ½ E.,
11	.....	3	4	.....	.....	dist. 25 miles from whence I take my departure.
12	.....	3	4	.....	.....	Lat. obs'd, 18 43.
348						
1	W. ½ N	4	....	E. SE.	.....	*Wednesday, Jan.* 22.—Begins with moderate breezes and
2	.....	4	....	.....	.....	pleasant weather; all sail set before the wind.
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	.....	4	....	.....	.....	
6	.....	4	....	.....	.....	
7	.....	4	....	.....	.....	
8	.....	4	....	.....	.....	
9	.....	4	4	.....	.....	
10	.....	5	....	.....	.....	
11	.....	6	....	.....	.....	
12	.....	6	....	.....	.....	Fresh breezes and pleasant.
1	.....	6	....	S. east	.....	
2	.....	6	....	.....	.....	
3	.....	5	4	.....	.....	
4	.....	5	4	.....	.....	
5	.....	5	4	.....	.....	
6	W. by N	5	4	.....	.....	
7	.....	6	4	.....	.....	
8	.....	6	....	.....	.....	
9	.....	6	4	.....	.....	Broached the 2d barrel of cabin bread.
10	.....	7	....	.....	.....	At 8. 30 made the Great Cayman island, bearing NW. by
11	.....	7	....	.....	.....	W. 8 miles.
12	.....	7	....	.....	.....	Lat. obs'd, 19 10.
349						
1	NW. by W	8	....	S. by E	.....	*Thursday, Jan.* 23.—Commences with fresh breezes and
2	.....	8	....	.....	.....	pleasant weather; all possible sail set before the wind.
3	.....	8	....	.....	.....	At noon the SW. pt. of Great Cayman island bore N.
4	.....	8	....	.....	.....	W. 7 miles, from whence I take my departure.
5	.....	8	....	.....	.....	
6	.....	8	....	.....	.....	
7	.....	8	....	.....	.....	
8	.....	8	....	.....	.....	
9	.....	9	....	.....	.....	
10	.....	9	....	.....	.....	
11	.....	9	....	.....	.....	
12	.....	9	....	.....	.....	Middle part fresh breezes; handed light sails.
1	.....	8	4	.....	.....	
2	.....	8	....	.....	.....	
3	.....	8	....	.....	.....	
4	.....	8	....	.....	.....	
5	.....	7	4	.....	.....	
6	.....	7	....	.....	.....	
7	.....	7	....	.....	.....	
8	.....	7	....	.....	.....	At 8 o'clock a. m. put one reef in fore and main sail.
9	NW.	5	....	S. SW.	.....	Ends with freshening gales and ugly threatening appear-
10	.....	5	....	.....	.....	ance of the weather, the wind canting to southwest-
11	.....	5	....	.....	.....	ward. Variation, ½ pt. east.
12	.....	5	....	.....	.....	Lat. obs'd, 21 19.

350 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds &c.	Lee way.	Remarks.
1	NW. by W	4	....	S. SE	2 pts.	*Friday, Jan'y* 24.—Commences with strong gales and flying clouds, with a heavy sea running, vessel laboring heavy; at 4 p. m. handed mainsail and jib, wore ship and set storm-sail, handed fore staysail.
2	.....	4	....	.....	.....	
3	.....	4	....	.....	.....	
4	.....	4	....	.....	.....	
5	S. by W.....	3	....	.....	.....	
6	.....	3	....	.....	.....	
7	.....	2	....	.....	.....	
8	S. SW	2	....	.....	.....	
9	.....	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	.....	2	....	.....	.....	
12	.....	2	....	.....	.....	The night continues stormy.
1	.....	2	....	.....	.....	
2	.....	2	....	.....	.....	
3	.....	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	.....	2	....	.....	.....	
6	.....	2	....	.....	.....	
7	.....	2	....	.....	.....	
8	.....	2	....	.....	.....	At 4° 30′ a. m. shipped a heavy sea fore and aft on deck; large quantities of water got into the cabin, also washed main pump, break, and standard overboard.
9	.....	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	.....	2	....	.....	.....	Ends much the same.
12	.....	2	....	.....	.....	Lat. obs'd, 20° 24′ north.
351						
1	S. SW.....	2	....	W. NW	2 pts.	*Saturday, Jan'y* 25.—Begins with moderating gales, with a heavy sea running, the vessel rolling and tumbling in the trough of the sea; were obliged to take in the slack of the fore rigging; at 2 p. m. wore ship, and wore again at 4. 30 p. m.
2	.....	2	....	.....	.....	
3	N. by W	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	S. SW	2	....	.....	.....	
6	.....	2	....	.....	.....	
7	.....	2	....	.....	.....	
8	.....	2	....	.....	.....	
9	.....	2	....	.....	.....	
10	.....	2	....	.....	.....	
11	.....	2	....	.....	.....	
12	.....	2	....	.....	.....	Middle part light airs.
1	.....	2	....	.....	.....	
2	.....	2	....	.....	.....	
3	.....	2	....	.....	.....	
4	.....	2	....	.....	.....	
5	.....	1	4	.....	.....	
6	.....	1	4	.....	.....	
7	.....	1	4	.....	.....	
8	.....	1	4	.....	.....	
9	.....	0	....	.....	.....	Latter part light airs, and a heavy still running; crew employed variously; unbent squaresail and fore gaft-topsail, and stowed them away.
10	.....	0	....	.....	.....	
11	.....	0	....	.....	.....	
12	.....	0	....	.....	.....	Lat. obs'd, 19° 49′.
352						
1	NW.....	2	4	NE	.....	*Sunday, Jan'y* 26.—Begins with light baffling airs and pleasant weather.
2	.....	2	4	.....	.....	
3	.....	2	4	.....	.....	
4	.....	2	4	.....	.....	At 4 p. m. made all sail by the wind.
5	.....	3	4	.....	.....	
6	.....	3	4	.....	.....	
7	.....	3	4	.....	.....	
8	.....	3	4	.....	.....	
9	.....	5	....	.....	.....	
10	.....	5	....	.....	.....	
11	.....	7	....	.....	.....	
12	.....	7	....	.....	.....	Middle part fresh breezes and cloudy weather.
1	.....	7	....	.....	.....	
2	.....	7	....	.....	.....	
3	.....	7	....	.....	.....	
4	.....	7	....	.....	.....	
5	.....	7	....	.....	.....	
6	.....	7	....	.....	.....	
7	.....	7	....	.....	.....	
8	.....	7	....	.....	.....	
9	.....	7	....	.....	.....	
10	.....	7	....	.....	.....	
11	.....	8	....	.....	.....	Ends much the same; two vessels in company.
12	.....	8	....	.....	.....	Lat. obs'd, 21 12.

353 *Log-book of the Stephen Hart, &c.*—Continued.

H.	Courses.	K.	F.	Winds, &c.	Lee way.	Remarks.
1	NW.....	7	....	East	1 pt.	*Monday, Jan'y* 20.—Commences with fresh breezes and flying clouds; one vessel in company steering same way; at 3.30 p. m. made Cape Antonio, bearing N. ¼ E., dist. 18 miles, and at 8 p. m. it bore E. SE. 8 miles; at 10 p. m. last saw of Cape Antonio light; bore S. by E. ¼ E. 20 miles, from whence I take my departure.
2	N. by E	7	....	.....	1	
3	.....	7	....	.....	1	
4	.....	7	....	.....	1	
5	.....	6	....	.....	1	
6	N. ¼ E	6	....	.....	1	
7	.....	5	....	.....	1	
8	.....	5	....	.....	1	
9	.....	5	....	.....	1	
10	.....	5	....	.....	1¼	
11	.....	5	....	.....	1¼	
12	.....	5	....	.....	1¼	
1	.....	5	4	.....	1¼	
2	.....	5	4	.....	1¼	At 4 a. m. fresh breezes and cloudy weather, with a heavy head-beat sea, vessel laboring and straining heavily, causing her to leak more than usual; handed flying jib and reefed the mainsail.
3	.....	5	....	.....	1¼	
4	.....	5	....	.....	1¼	
5	.....	5	....	.....	1¼	
6	.....	5	....	.....	1¼	Variation, ¼ pt. east.
7	.....	5	....	.....	1¼	Lat. obs'd, 23° 24' north.
8	.....	5	....	.....	1¼	
9	.....	5	....	.....	1¼	
10	.....	5	....	.....	1¼	
11	.....	5	....	.....	1¼	
12	.....	5	....	.....	1¼	

354 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Saturday, the first day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE SCHOONER "STEPHEN HART," her tackle, &c., and cargo. } In prize.—17, 81.

This cause having been heard on the libel and proofs, and testimony taken *in preparatorio*, and after hearing counsel for libellants and claimants, and due deliberation being had in the premises, now, on motion of E. Delafield Smith, attorney of the United States, it is ordered, adjudged, and decreed by the court, that the schooner "Stephen Hart," her tackle, &c., and cargo be condemned and forfeited to the United States, on the ground that the said captured property is lawful prize of war. And a portion of the said cargo having been taken for the use of the government on appraisal, and the remaining portion thereof, together with the said vessel, having been heretofore sold, under an interlocutory order of the court, and the proceeds of said sale, together with the said appraised value, having been deposited according to law, it is further ordered, adjudged, and decreed, that the costs and disbursements herein
355 be adjusted and paid according to law. That unless an appeal be taken from this decree within the time limited by law, the prize commissioners shall proceed, under the direction of the court, as soon as possible after the entry of this decree, to take the re-

quisite evidence, and report the same to the court, to the end that a final decree may be made herein, determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture.

SAM'L R. BETTS.

Filed 1st August, 1863.

356 *Notice of appeal.*

U. S. district court.

THE UNITED STATES AND CAPTORS, libellant,
vs.
THE SCHOONER "STEPHEN HART," her tackle, &c., and cargo.

GENTLEMEN: Please take notice that the claimants herein appeal from the final decree to the Supreme Court of the United States, at Washington, in pursuance of section 7 of the act of Congress approved March 3d, 1863.

Yours, &c.,

A. KURSHEEDT,
P'r for App'l't.

E. DELAFIELD SMITH, Esq.,
U. S. D. Att'y.
GEO. F. BETTS, Esq., *Clerk.*

I admit due service of a notice, of which within is a copy, dated August 17, 1863.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Filed 17th August, 1863.

357 *Petition of claimant of vessel.*

SCHOONER STEPHEN HART, her tackle &c.; John Meyer Harris, claimant, *ads.* THE UNITED STATES, libellant. } In prize.

To the honorable the Supreme Court of the United States:

The appeal of John Meyer Harris, claimant of the above-named vessel, respectfully shows, that on this 18th day of February, 1862, the above-named United States filed a libel in the district court of the United States for the southern district of New York against the said Stephen Hart, her tackle, apparel, and furniture and cargo, in a cause of prize, for the forfeiture of said vessel and cargo as prize of war, and the said schooner Stephen Hart, her tackle, apparel, and furniture, and the cargo was arrested upon process issued upon said

libel, and your petitioner duly intervened for and claimed said vessel; and such proceedings were had in said cause, that on the 1st
358 day of August, 1863, a final decree was made and pronounced therein by the said district court, wherein it was, in substance, adjudged that the said vessel, her tackle, apparel, and furniture and her cargo was forfeited to the use of the United States as prize of war; which said decree of the district court was in all things erroneous, and should be reversed. Wherefore the appellant appeals from the whole of said decree, so far as the same condemns said vessel of the petitioner, or in anywise affects the same, and he respectfully prays that the said decree of the district court, and the pleadings, evidence, and proceedings in said cause, may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the same cause anew, and the said decree of the district court, and every part thereof, may be reversed, and a decree may dismissing said libel with costs, or such other decree as to the said Supreme Court shall seem just.

JOHN MEYER HARRIS.

A. KURSHEEDT & C. DONOHUE,
Proctors for App'l't.

Dated Aug. 17, 1863.

359 I admit due service of a copy of the within petition of appeal.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Filed 17th August, 1863.

360 *Petition of claimant of cargo.*

SCHOONER "STEPHEN HART," her tackle, &c., cargo; Samuel Isaacs, Saul Isaacs, claimants, *ads.* THE UNITED STATES, libellant.	In prize.

To the honorable the Supreme Court of the United States:

The appeal of Samuel Isaacs and Saul Isaacs, claimants of the cargo of the above vessel, respectfully shows, that on the 18th day of Feb'y, 1862, the above-named United States filed a libel in the district court of the United States for the southern district of New York against the said "Stephen Hart," her tackle, apparel, and furniture and cargo, in a cause of prize, for the forfeiture of said vessel and cargo as prize of war, and the said schooner "Stephen Hart," her tackle, apparel, and furniture and the cargo was arrested upon process issued upon said libel, and your petitioner duly intervened for and claimed said cargo; and such proceedings were had in
361 said cause, that on the 1st day of August, 1863, a final decree was made and pronounced therein by the said district court, wherein it was, in substance, adjudged that the said vessel, her tackle, apparel, and furniture and her cargo was forfeited to the use of the

United States as prize of war, which said decree of the district court was, as petitioner alleges, in all things erroneous, and should be reversed. Wherefore this appellant appeals from the whole of said decree, so far as the same condemns said cargo of the petitioner, or in anywise affects the same, and he respectfully prays that the said decree of the district court, and the pleadings, evidence, and proceedings in said cause, may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the decree of the district court may be reversed, and a decree made dismissing said
362 libel with costs, or such other decree as to the said Supreme Court shall seem just.

SAMUEL ISAAC.
SAUL ISAAC.
A. KURSHEEDT & C. DONOHUE,
Proctors for App't.

Aug. 17, 1863.

363 I admit due service of a copy of the within petition of appeal, Aug. 17, 1863.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

364 By the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York, to E. Dalafield Smith, esq., attorney of the United States, acting in behalf of the United States, in the suit, in prize, of the United States of America, libellants and captors in interest, against the schooner Stephen Hart:

Whereas John Myer Harris, claimant of the schooner Stephen Hart, in pursuance of section 7 of the act of Congress approved March 3d, 1863, has lately appealed to the Supreme Court of the United States from a decree rendered by the judge of the district court of the United States for the southern district of New York, made in favor of you, the said libellants, and whereby the said vessel was condemned and forfeited as lawful prize of war, and has filed the security required by law; you are, therefore, thereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, the eighteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-eighth.

SAM'L R. BETTS. [L. S.]

365 Endorsed: 17, 81. U. S. Supreme Court. In prize. The United States *vs.* The schooner Stephen Hart and her cargo. Citation on appeal.

Due service of copy of within admitted, 18th Aug't, 1863.
E. DELAFIELD SMITH,
U. S. Dist. Att'y.
KURSHEEDT & DONOHUE,
Proctors for Appellants.

Filed 18th Aug., 1863.

366 By the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York, to E. Delafield Smith, esq., attorney of the United States, acting in behalf of the United States of America, libellants and captors in interest, against the schooner Stephen Hart and cargo:

Whereas Samuel Isaac and Saul Isaac, claimants of the above cargo, in pursuance of section 7 of the act of Congress approved March 3, 1863, have lately appealed to the Supreme Court of the United States from a decree rendered by the judge of the district court of the United States for the southern district of New York, made in favor of you, the said libellants, and whereby the said cargo was condemned and forfeited as lawful prize of war, and have filed the security required by law; you are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, on the eighteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-eighth.

SAM'L R. BETTS. [L. S.]

367 Endorsed. 17. 81. U. S. Supreme Court. The United States *vs.* The schooner Stephen Hart and her cargo. Citation on appeal.

Due service of copy of with in admitted 18th Aug't, 1863.
E. DELAFIELD SMITH,
U. S. Dist. Att'y.
KURSHEEDT & DONOHUE,
Proctors for Appellants.

Filed 18th Aug't, 1863.

368 District court of the United States of America for the southern district of New York, in the second circuit.

UNITED STATES, AND CAPTORS,
vs.
THE SCHOONER STEPHEN HART, her tackle, &c., and her cargo. } Bond for costs.

Know all men by these presents, that we, Welcome R. Beebe and Charles Donohue, both of the city of New York, are held and firmly bound unto the above-named libellants and appellees, in the sum of five hundred dollars, to be paid to the said libellants, for the payment

of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the seventeenth day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Whereas the above-named claimants have prosecuted an appeal to the Supreme Court of the United States in pursuance of section 7 of the act of Congress, approved March 3, 1863, to reverse the decree rendered in the above-entitled suit, by the judge of the district court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above-named claimants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

W. R. BEEBE. [L. S.]
C. DONOHUE. [L. S.]

Sealed and delivered, and taken and acknowledged, this 17th day of August, 1863, before me.

GEO. F. BETTS,
U. S. Com'r.

369 UNITED STATES OF AMERICA,
Southern District of New York, ss:

W. R. Beebe and Charles Donohue, being duly sworn, each deposes and says that he resides in the city of New York, and that he is worth the sum of one thousand dollars over and above all his just debts and liabilities.

W. R. BEEBE.
C. DONOHUE.

Sworn to this seventeenth day of August, A. D. 1863, before me.

{ Revenue Stamp. }

GEO. F. BETTS,
U. S. Com'r.

I approve of the sufficiency of the sureties of the within bond.

SAM'L R. BETTS.

August 18, 1863.

Filed this 18th day of August, 1863.

In the Supreme Court of the United States.

DECEMBER TERM, 1865.

In Prize.

THE SCHOONER STEPHEN HART, &c., AND Cargo—John Meyer Harris, claimant of vessel, and Samuel Isaac and Saul Isaac, claimants of the cargo—appellants,
vs.
THE UNITED STATES.

No. 126.

APPEAL FROM THE DECREE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

STATEMENT AND ARGUMENT FOR THE UNITED STATES.

JAMES SPEED.
Attorney General.

In the Supreme Court of the United States.

DECEMBER TERM, 1865.

In Prize.

THE SCHOONER STEPHEN HART, &c., AND Cargo—John Meyer Harris, claimant of vessel, and Samuel Isaac and Saul Isaac, claimants of the cargo—appellants,
vs.
THE UNITED STATES.
} No. 126

APPEAL FROM THE DECREE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

Statement and argument for the United States.

The schooner Stephen Hart, laden with a cargo of munitions of war, was captured as lawful prize of war by the United States ship Supply, George M. Colvocoresses, esq., commander, on the 29th of January, 1862, in or about latitude 24° 12′ north, longitude 82° 31′ west, about 25 miles from Key West, Florida, and about 82 miles from Point de Yeacos, Cuba, and was sent into the port of New York, where she was libelled in prize by the United States attorney on the 18th of February, 1862. (Rec., p. 4.)

On the 1st of May, 1862, Charles N. Dyett, master of the Stephen Hart, filed a claim to the schooner "for John Meyer Harris, of Liverpool," England, as her sole owner, alleging that Harris was her true and *bona fide* owner. In the test oath Dyett alleges that he and Harris are British subjects; that Harris, the sole owner of the schooner, was then on the west

coast of Africa; that the schooner, having her cargo laden, sailed from the port of London and Erith on or about the 19th of November, 1861, on a voyage to Cardenas, Cuba, whither she was proceeding when captured. He alleges that the vessel and cargo were the sole property of British subjects, engaged in a voyage from neutral port to neutral port, neither violating nor intending to violate any of the laws of nations or befriend the enemies of the United States, and consigned to order of the shippers, S. Isaac, Campbell & Co., *the deponent having, by mistaken construction of his letters of instruction, supposed the cargo consigned to Charles J. Helm, to whom the schooner was consigned.* (Rec., pp. 31–34.)

On the same day, Samuel Isaac, on behalf of himself and Saul Isaac, composing the firm of S. Isaac, Campbell & Co., subjects of Great Britain, and doing business in the city of Westminster, England, filed a claim to the whole of the cargo of the Stephen Hart, alleging that at the time of the capture they were its true and *bona fide* owners. In the test oath he alleges that said firm, on or about the 2d of December, 1861, partly at London and partly at Erith, England, shipped on the Stephen Hart, a vessel belonging to John Meyer Harris, of Liverpool, England, and Sherboro', on the western coast of Africa, and bound for Cardenas, Cuba, a cargo of arms, ammunition, and military clothing; that said cargo was their lawful property, and was placed on board the Stephen Hart, and she cleared for Cardenas, for which port the cargo was destined; that she was a British vessel, sailing under the British flag; that it was not intended she should enter or attempt to enter *any port of the United States*, or that the cargo should be delivered *at any port of the United States;* that the true and only destination was Cardenas, where the same was to be delivered, and the vessel was to sail thence to Africa if she obtained a suitable cargo. (Rec., pp. 36–38.)

On the 25th of October, 1862, John Meyer Harris, "late of Liverpool, England, but now of Sherboro', on the western coast of Africa," filed a claim to the schooner as her true and only owner, alleging himself a British subject. In the test oath he asserts that on or about the 28th of September, 1861, he agreed to become the purchaser at a fair and *bona fide* sale of the vessel for £1,750, to be paid on the 28th of October, 1861, but which it was subsequently arranged should be paid on the 14th of October, when, with a slight abatement, it was paid; that he took possession and loaded her for London, where she proceeded; that thereafter she was loaded with a cargo of arms, ammunition, and military clothing, the sole property of S. Isaac, Campbell & Co.; that she cleared and proceeded for the port of Cardenas, for which port the cargo was destined; that she was a British vessel, under the British flag; that it was not intended that she should enter or attempt to enter *any port of the United States;* that her true and only destination with the cargo was Cardenas, where the same was to be delivered, and the vessel was to sail thence to deponent in Africa, if she obtained a suitable cargo; that she was on a voyage from a neutral port to a neutral port, not violating any law of nations, and that vessel and cargo are British property. (Rec., pp. 70–72.)

The court having appointed an appraiser to appraise the arms and other munitions of war on board the Stephen Hart, the person so appointed made report of the cargo, consisting of Enfield rifles and carbines, British rifled muskets, Brunswick rifles, cavalry sabres, Blakely's rifle cannon, rifle and cannon cartridges, percussion caps, knapsacks, blankets, gray and scarlet army cloth, 625 gross brass buttons, for infantry, artillery, and cavalry, for the rebel army, marked C. S. A., shoes and stockings, military trimmings, medicines, powder, and other munitions of war, valued at $238,841 37. (See report

of appraiser and prize commissioners, Rec., pp. 13–30.) Portions of the cargo were delivered to the War and Navy Departments at the appraisement, and the residue was sold, and the proceeds of the whole were paid into the registry of the court. (Rec., pp. 40, 52, 56, 57.)

The schooner was appraised at the sum of $4,100, (Rec., p. 50,) and sold, and the proceeds of the sale were also deposited in the registry of the court. (Rec., p. 58.)

By order of the court, the whole sum was invested with the United States assistant treasurer, at New York, upon certificates of deposit bearing four per cent. interest. (Rec., pp. 58, 59.)

On the 1st of August, 1863, the court decreed condemnation of the schooner, &c., and cargo, as lawful prize of war. (Rec., p. 140.)

On the 18th of August, 1863, John Meyer Harris, claimant of the vessel, and Samuel Isaac and Saul Isaac, claimants of the cargo, appealed from the decree to this court.

It is submitted that both vessel and cargo were lawful prize of war:

1st. Because they were enemy property;

2d. Because they were sailing, when captured, with intent to violate the blockade of one of the southern ports; and

3d. Because the purpose of the voyage was the delivery of goods contraband of war at an enemy port for enemy use.

The Stephen Hart was built in the State of New York in the year 1859, her American name having been the "Tamaulipas." (Register, Rec., p. 34.) When the rebellion broke out she seems to have been owned at New Orleans, where she put off her American title by the process so familiar to this court. She is said to have been sold at New Orleans, in May, 1861, to Richard Allen, an alleged Englishman residing at that

place, the same person who, as is known to the court, was the pretended purchaser of *The Andromeda* and other prize vessels since condemned. Adopting the usual device by which enemy vessels were then converted into neutrals, Allen is said to have given a power of attorney to her master, Ackley, at New Orleans, to sell her. She then escaped from that port in June, 1861, and after stopping at Cuba went to Matanzas, where she took on a cargo of sugar, and sailed thence to Falmouth, England, for orders. From that port she was ordered to Bristol, where she proceeded and discharged her cargo, still retaining her American name. She hauled up at Bristol, "in company with confederate vessels," was advertised for sale, and there, as is alleged, was sold to Harris.

Her history, previous to the alleged sale to Harris, is not disclosed by him in his test oath, which even conceals the name of her vendor, but it is found in the testimony of Chadwick, her first mate. (Rec. pp. 84, 86, ints. 10, 12, 14, 37, and p. 104, int. 39.) The same witness states that after Harris bought her he wished the witness to continue in her as first mate; that either she would go to, or he would put witness on board another vessel to go to the Confederate States. Upon this understanding she loaded and proceeded to London, where her cargo was discharged in haste, in order to be ready to receive another cargo. Before she commenced taking in this cargo witness received a telegram, he thinks from Harris, requesting him to go to No. 71 Jermyn street, London, the office of S. Isaac, Campbell & Co. He went, and there met Mr. Isaac, the head of that firm, and Mr. Hughes, who told witness he was the commercial confederate agent for purchasing arms and ammunition for and shipping the same to the Confederate States, and who asked witness how he would like to run the blockade of the southern States in the Stephen Hart. Witness was again sent for, and met there

Mr. Isaac, the same Capt. Hughes, Wm. L. Yancey, and a South Carolina captain named Connor. Chadwick details the facts of his employment by Hughes as a pilot agent to go on a steamer chartered by Hughes, and then taking in a cargo of arms and ammunition for the Confederate States. He was then ordered on board that steamer, (the Gladiator,) but it having been found that she could not carry all the cargo which had been bought for her, the portion she could not take was put on board the Stephen Hart, together with other like cargo to fill her up. Chadwick was then ordered from the Gladiato to take charge of the loading and fitting out of the Stephen Hart, which he did. On his recommendation *to Hughes*, Capt. Dyett was appointed master of the Stephen Hart, and Chadwick was to go in her nominally as mate, but really in charge of the cargo of arms and munitions. Before the vessel left he was instructed by Hughes to proceed to Cardenas, Cuba, and there to work under the instructions of Charles J. Helm, the agent for the Confederate States at that place. Hughes said the cargo was to be there transshipped into a steamer, which could be used with greater facility in running the blockade, or she might be ordered to proceed herself. Chadwick was to get $45 a month for all the time he was employed, including any time he might be detained or imprisoned in consequence of any attempt to run the blockade. If he had gone in the Gladiator he was to have received a bounty of $500; and if ordered by Helm to cross the blockade in the Stephen Hart, was to receive a bonus, to be agreed upon with him. Under that arrangement his wages were paid up to the 4th of June, 1862, more than four months after the capture. Chadwick also states that the Stephen Hart sailed under English colors, but she had an American flag, cut up for a burgee. She had also the confederate flag, which, after the capture of the vessel, and while the captors were in

charge, he took from where it was hid in his clothes-bag and threw overboard. He says the flag was intended to be displayed in connexion with a peculiar one, called the "Isle of Man's flag," or signal, which was adopted by the southern States as a signal for a friendly vessel wishing to enter, and which should be protected as far as possible by them.

He also states that he recommended them to purchase the latest official report of the United States Coast Survey, which he was told to purchase at any price. He obtained one. It was presented to him by R. H. Leonard, mate of the ship Alexander, then lying in Bristol. He also received a letter from Captain Johnson, of the ship Naomi, of Charleston, S. C., giving a description of the entrance at Charleston, and also letters for his wife and for other persons residing in the "Confederate States," which were to be forwarded to the parties by the Gladiator.

Chadwick, who was born in New England, says he was induced to make these avowals, not embraced in his testimony as first taken, because of the persuasions of his wife, a loyal woman, living in Boston. (Rec., pp. 104, 106.)

There is no reason to question the truth of these statements; but they are fully corroborated by the letters found on board the vessel.

See letter from R. H. Leonard, of "ship Alexander, Confederate States," to Chadwick, dated Bristol, October 29, 1861, furnishing him "with the book required," and showing that it was to be used in aid of blockade-running. (Rec., p. 109.)

Letter of Leonard to Chadwick, dated at Bristol. (Rec., p. 110.)

Letter of John Johnson, of "ship Naomi" to Chadwick, dated Bristol, October 29, 1861, giving information as to entrance to Charleston harbor, and enclosing letter to the south, to be

forwarded in case Chadwick succeeded "in safely reaching any southern port." (Rec., p. 111.)

These letters were put in a teapot at the time of the capture by Leisk, the cook, by order of Chadwick, "to keep them out of sight." Leisk told the capturing officer where to look for them. (Rec., p. 90, int. 32.) See also Chadwick's affidavit. (Rec., p. 70.) When Chadwick returned to the vessel for his clothes, the first thing he said to Leisk was, 'Have you those papers?" Leisk told him they were found by the officer. Chadwick then said, "Why in hell did you not destroy them? By God, I am done." (Rec., p. 91.) See also Nellman (int. 20, Rec. p. 95) and Allan, (int. 12, Rec. p. 100.)

Chadwick's testimony is corroborated by nearly all the other evidence in the case.

Capt. Dyett was appointed to command the Stephen Hart, in London, on the 15th November, 1861, not by Harris, but, as he states, by *Isaac, Campbell & Co.* Saul Isaac delivered the vessel to him. (Rec., p. 75, int. 7.) Dyett's testimony, as remarkable for its attempted concealment as for its involuntary admission of material facts, fully sustains the statements of Chadwick. He says the crew all came aboard at London, except the mate whom he "shipped" at Gravesend—that is, he put him on the articles there, though he was aboard when Dyett left London, *looking after the stowage of the vessel.* The mate he had shipped did not join the vessel, and so Dyett put Chadwick on the ship's articles as mate. (Rec., p. 75, int. 8.) The entry on the log shows that Chadwick assumed the duty of "ship-keeper" on the third day after the voyage began. (Rec., p. 121.)

The vessel cleared and started from London on the 19th of November, 1861. (Rec., pp. 76, 121.) The shipping articles contracted for a voyage "from London to Cuba and Sierra

Leone and any port or ports on coast of Africa and (or) North and (or) South America, and (or) West Indies, and back, to a final port of discharge in the United Kingdom, voyage not to exceed twelve months." (Rec., p. 116.)

No clearance was found on board the ship, but she seems to have been cleared at London, on the 19th November, 1861, for *Cuba*. Dyett says she was bound for Cardenas, Cuba. (Rec., p. 76, int. 11.)

We have already seen that the cargo was not only exclusively contraband, but that portions of it were impressed with conclusive evidence that it was destined for the use of the States then in rebellion.

Dyett pretends to be ignorant of its character. He says the vessel "was loaded with a cargo consisting of British manufactured goods, in bales and cases, the contents of which were unknown to me. I saw that some of the cases were marked 'Long Enfield,' which I suppose contained 'Long Enfield' guns. I think I saw a few bales marked 'socks,' * * * She had no goods on board which were contraband of war, nor otherwise prohibited by law." (Rec., p. 76, int. 11.)

This ignorance is evidently feigned. He says he signed four bills of lading, which were prepared by the broker and laid before him, which he says were true bills of lading, not false or colorable. (Rec., p. 77, int. 17.) He also signed the manifest before the collector at London. (Rec., p. 79, int. 31.)

The brokers referred to are Speyer & Haywood, of London, (printed in record Spegee & Haywood,) known to the court as the agents of Isaacs, Campbell & Co., and T. S. Begbie, in fitting out the blockade-runner Springbok.

Dyett's ignorance of the character of the cargo was not shared by his crew. Chadwick, on his first examination, stated that she was loaded with powder and munitions of war. (Rec.,

p. 84, int. 11.) Leisk says she had on board goods contraband of war, to wit, arms, powder and soldiers' equipments (Rec., p. 89, int. 11.) Nellman, second mate, says "the lading consisted entirely of warlike stores and articles." (Rec., p. 94 int. 11.) Allen says, "I believe she has a general cargo of arms and munitions of war." (Rec., p. 100, int. 11.)

Although Dyett had signed the bills of lading and manifest, he says he "don't know who were the laders of the cargo." (Rec., p. 77, int. 16.) He also says, "I don't know who owns the cargo, but my impression is that it belongs to Isaacs, Campbell & Co." (Rec., p. 77, int. 14.)

It is a significant fact, that neither bills of lading, invoices, nor manifest were found on board. Dyett says he had no bills of lading or invoices on board at any time before capture: they and the manifest were to be forwarded to him at Cardenas. (Rec., p. 77, ints. 17, 18.)

But Dyett fully sustains Chadwick, by stating that the *consignee of the cargo was Major J. H. Helms.* He says: "That was according to my written instructions which I now hold in my pocket, and which was given to me on the day I sailed from London, on the 19th of November last. Major Helm resides in Havana. I don't know for whose risk and account the goods were. I don't know what interest Major Helms had in the goods; my impression is that the goods belonged to Isaacs, Campbell & Co., and were consigned to Major Helms. I find, on looking at the letter, that I was mistaken in the name above given; it should be Charles J. Helm." (Rec., p. 77, Int. 16.)

The letter Dyett refers to is from S. Isaac, Campbell & Co. to himself, dated London, November 19, 1861, directing him to proceed from London to Cardenas, &c., and adding, "On your arrival at Cardenas you will report yourself to Charles J. Helm, esq., to whom you will consign yourself and vessel, and

from whom you will receive all orders for your future actions, with reference to the schooner and cargo, and you will be pleased to implicitly obey all orders by Charles J. Helm, esq." Notwithstanding the pretence of a voyage to the African coast, this letter informs Dyett that Helm may require the schooner for use at Havana, in which case Dyett was at once to make the best arrangements for the immediate return of himself and crew to England. (Rec., p. 81.)

See, also, letter of same date from Saul Isaac to Charles J. Helm, esq., (care of J. Crawford, esq, Havana,) stating that, "as advised by my letter of the 16th instant, I have now the pleasure to again address you. The bearer of this is Captain Dyett, of the schooner Stephen Hart, for whom I ask the favor of your good offices. Should he require assistance or advice during his stay at *Havana*, he will hand you his instructions from my house to read, and I feel assured you will in all matters find him a good man." (Rec., pp. 81, 82.)

The claimants of the cargo have not seen fit to produce the "letter of the 16th instant," which would, doubtless, have given a clearer idea of the real ownership and destination of the cargo than can be extracted from the vague terms of the above letter. These letters were not delivered by Captain Dyett with the other papers at the time of capture, but were first produced by him on his examination *in preparatorio*. (Rec., p. 78, int. 20.) They are, doubtless, the papers referred to by Leisk, who states that on the evening of the capture Captain Dyett gave him some papers, which he had put at the foot of his berth. Dyett told Leisk if he sent for those papers, he (Leisk) should know where to find them. This was in the captain's room, with closed doors and no one in hearing, before the captain went on board the Supply. Afterward when Leisk asked him if he wanted the papers, the captain said, "We have already got them." (Rec., p. 91.)

Notwithstanding his former statements, that the vessel was bound for *Cardenas* and that the consignee of the cargo was Major Helm, (to whom his letter of instructions directs him to report,) he states, in answer to interrogatory 28, that directly after his arrival at Cardenas he was to telegraph to *Calmyac Brothers, Havana*, who were to communicate with him, and, he supposes, *tell him what to do with his cargo.* (Rec., p. 78.) To interrogatory 31st he answers, that the bills of lading must be in some other place or country, and he supposes in *Cardenas*, none being on board his vessel. The manifest was also to be forwarded to Cardenas. (Rec., p. 79.)

According to these statements, he was sailing to *Cardenas*, with directions to telegraph to *Calmyac Brothers*, of *Havana*, for instructions what to do with a cargo which was consigned to *Major Helm*, of *Havana*, to whom he was ordered to report—the bills of lading, manifest, &c., at the same time going to Cardenas! If anything were needed to raise statements so confused and suspicious into clear proof of guilt, it is furnished in the fact that the claimants of the cargo have not ventured to explain or reconcile them by disclosing the true history of the consignment and destination of the cargo. Dyett's attempt, in the test oath appended to the claim he filed for Harris to the vessel, (Rec., p. 33,) to escape the effect of his contradictory testimony, is simply the substitution of one falsehood for another. He there asserts that vessel and cargo were consigned to the order of the shippers, S. Isaac, Campbell & Co., and that he, *by mistaken construction* of his letters of instruction, when captured, supposed the cargo consigned to Charles J. Helm, to whom the schooner was consigned. But the letter of Isaac, Campbell & Co. to Dyett (Rec., p. 81) directs him not only to report himself to Helm, to whom he "was to consign himself and vessel," but it adds, "and from whom you wil receive all orders for your

future actions with reference to the schooner *and cargo*," &c. It will also be noticed that though Dyett thus attempts to destroy his admission of a consignment of the cargo to Helm, neither he nor Samuel Isaac (in the claim subsequently filed, Rec., p. 37) states to whom it was consigned or intended to be consigned.

Chadwick's testimony is also corroborated by the other witnesses.

Nellman, the second mate, (Rec., pp. 92–97,) says the vessel, besides the British flag and an American ensign, "cut up to make a burgee of," carried the "confederate" flag. (Int. 4.) He also says that Chadwick told him that she had carried "confederate" troops on several voyages between ports and places in the southern States. (Int. 12.) He believes the cargo on board was owned in the "Confederate States of America," as he heard Chadwick say so. Never heard anything further concerning the cargo and owners, except that Chadwick told him the cargo was going to some place in the "Confederate States." Chadwick professed to know all about it. (Int. 14.) Nellman further states that Mr. Hughes, whom he believes to be an agent for the "Confederate States," *put the cargo on board and was the lader thereof.* He seemed to be the principal man, and had the most to say about the vessel and cargo. The goods were to be delivered in the southern States, at some port therein, he thinks, for the account or benefit of some persons in those States. He fully believes, from what he had heard on board their vessel, that the cargo was destined for some port in the southern States, either to be carried there in their vessel, or to be transshipped and put in another vessel for the same purpose. (Int. 16.) Again he says, "I think our vessel was, in reality, bound for Cuba on this last voyage, and that on arriving there she would have received instructions as to what particular port or place she

should go in the southern States, or as to whether the cargo should be transshipped and put on board another vessel. The first mate told me that a steamer would receive our cargo at Cuba, very probably, and would carry it thence to some southern port." (Int. 24.) He also says that Chadwick had told him that when Harris saw and purchased the vessel at Bristol from Capt. Hackley or Ackley, (who was a southerner,) she was lying among some "confederate" craft. (Int. 37.) It will be remembered that these statements of Chadwick to Nellman were made and repeated long before Chadwick, under the persuasions of his wife, had determined to disclose the truth as to the ownership, objects, and destination of vessel and cargo. They therefore strongly support his subsequent testimony.

Robert Allan (a seaman) says he had suspicion that she was going into a blockaded port, but could not swear to it. (Int. 25.; Rec., p. 100.)

All these witnesses—some by necessary implication, and some by express acknowledgment—prove not only the existence of the blockade of the southern ports, but that it was well known to all on board.

The following propositions result from the foregoing statement of facts:

I.

The cargo, at the time of capture, was in the actual ownership, possession, and control of the rebel authorities, having been shipped by the rebel agent, Hughes, at London, and consigned to the rebel agent, Helm, at Cuba, to whom it was proceeding, in due course, for the use of the rebellion. It was, therefore, enemy property in the highest sense.

II.

The consignment of the cargo to Helm, the rebel agent at Cuba, stamps it with a hostile character, whether it was shipped by the rebel agent, Hughes, or by its manufacturers, S. Isaac, Campbell & Co.; for the consignment to Helm was a consignment to the rebel authorities, whose agent he was, and it is well settled that goods shipped to an enemy consignee in time of war vest in the consignee *as soon as shipped*, and the captor has a right to seize and convert them to his own use. "For he, having all the rights that belong to his enemy, is authorized to have his taking possession considered as equivalent to an actual delivery to his enemy; and the shipper who put them on board during a time of war must be presumed to know the rule, and to secure himself, in his agreement with the consignee, against the contingence of any loss to himself that can arise from capture. In other words, he is a mere insurer against sea-risk, and he has nothing to do with the case of capture, the loss of which falls entirely on the consignee. If the consignee refuses payment, and throws it upon the shipper, the shipper must be supposed to have guarded his own interests against that hazard, or he has acted improvidently and without caution." (Sir William Scott, in *The Packet de Bilboa*, 2 Rob., 133. See also *The Sally*, 3 Rob., 302; *The Vrow Margaretha*, 1 Rob., 339; *The Anna Catharina*, 4 Rob., 107, 5 Rob., 161; *The Mary and Susan*, 1 Wheaton, 25.)

And especially will a prize-court presume that the captured goods had vested in the enemy consignee when no proprietary documents or other written evidence could be found on the ship to show that they were owned by any other person.

If, therefore, S. Isaac, Campbell & Co., and not Hughes,

shipped the captured cargo to Helm, without receiving payment therefor, the capture by "the Supply" operated as a delivery to Helm, and they must needs look for payment to Helm or his principal, the rebel government.

III.

The vessel, whether actually owned by Harris or not, was also enemy property, because, when captured, she was in the exclusive use, employment, and possession of the agents of the rebel authorities, engaged in the transportation of munitions of war for the use of the rebel armies, the claimant, Harris, if he owned her, having relinquished her to those persons for that service. This is shown by the testimony of Chadwick and Nellman, especially by the fact that Hughes employed Chadwick to take charge of her loading and fitting out, and appointed Dyett to command her, (Rec., p. 105;) by the letter of S. Isaac, Campbell & Co. to Dyett, directing him as to economy in the expenses of the vessel, and the return of himself and crew to England in case Mr. Helm might "require the schooner for use at Havana," and by the absence of a charter-party or any other evidence of the retention of ownership by Harris.

IV.

The vessel will also be presumed to have been enemy property when captured, because, having been owned at New Orleans at the outbreak of the war, the sale of her to Richard Allen, at that port, in May, 1861, was void, and any title acquired by Harris through Allen was also void. (*The Andromeda*, 2 Wallace, 481; *The Christine*, 1 Spinks, 82; *The Sisters*, 5 Rob., 155.)

Even if the sale to Harris were proved according to the requirements of a prize court, (no bill of sale having been

produced,) it is void on the further ground that the power of attorney, under which it purported to have been made, having been executed at the blockaded enemy port of New Orleans, could confer no valid authority to make such a sale. (*The General Hamilton*, Rob., 61; *The Two Br others*, 1 Rob., 131.)

V.

The Stephen Hart, when captured, was sailing with false and pretended destination to Cardenas, but with real, ultimate destination to one of the southern blockaded ports, and was, with her cargo, on that ground good prize when captured.

VI.

But, whether she intended to stop at Cardenas or any other Cuban port or not, she was, when captured, pursuing a voyage with a cargo not intended to be sold, or disposed of, or even delivered at such port, but intended to be transported therefrom directly to the enemy's blockaded port, as its port of real destination, either by continuing her voyage to the blockaded port, or by transshipment of cargo to some other vessel for delivery at that port; and this was the sole and exclusive purpose of the voyage. Whether the cargo was to reach the blockaded port on the Stephen Hart, or by transshipment to another vessel, was a question to be decided by Helm when she reached her pretended destination.

VII.

The said cargo was entirely contraband of war, consisting of articles all of which were specially, and some of which were exclusively, suited for enemy use, and destined to an enemy port for such enemy use, either by transportation thereto on the Stephen Hart, or by transshipment at an inter-

mediate port to another vessel for carriage to the enemy port, but without any sale or change of ownership at such intermediate port.

VIII.

Having been captured whilst this contingent and eventual purpose of reaching the blockaded and enemy port still existed, both vessel and cargo were good prize, and the purpose to stop at an intermediate neutral port, where that contingency was to be determined, did not relieve either vessel or cargo from liability to capture. Such stoppage would not have broken the continuity of the voyage to the blockaded and enemy port. (Halleck's Int. Law, chap. 21, sec. 11, p. 504; 1 Kent's Com., 81; *The Maria*, 5 Rob., 365; *The William*, 5 Rob., 385; *The Thomyris*, Edwards, 17; *The Minerva*, 3 Rob., 229; *The Richmond*, 5 Rob., 325; *The Commerce*, 1 Wheat., 382; *Jecker* vs. *Montgomery*, 18 How., 110, 115; *The Nancy*, 3 Rob., 122; *The United States*, Stewart's Adm. Rep., 116. See, also, opinions of Judge Betts in *The Peterhoff*, *The Springbok*, and this case; and of Judge Marvin in *The Dolphin* and *The Pearl*.)

IX.

Both vessel and cargo were liable to capture as prize of war from the moment of starting with the purpose of entering the blockaded and enemy port, and having been captured whilst that purpose yet existed, they were good prize. (*The Columbia*, 1 Rob., 154; *The Vrow Joanna*, 2 Rob., 109; *The Neptunus*, Ib., 115; *Medeiros* vs. *Hill*, 8 Bing., 231; *Yeaton* vs. *Fry*, 5 Cranch, 335; *The Imina*, 3 Rob., 167; *The Trende Sostre*, 6 Rob., 390.)

X.

The vessel was good prize, on the further ground, that even if owned by Harris, she was carrying contraband of

war destined for enemy use, with full knowledge and consent of her owner; she was carrying it, too, with false destination. These facts implicate her owner in the guilt of the cargo. (*The Neutralite*, 3 Rob., 296, where the owner chartered the ship for contraband trade; *The Franklin*, 3 Rob., 217, where the ship was carrying contraband with a false destination, and where Sir William Scott said that the relaxation of the ancient rule, which condemned the ship with the cargo, can only be claimed by *fair* cases; *The Ranger*, 6 Rob., 126, where he said, "If the owner (of the ship) will place his property under the absolute management and control of persons who are *capable* of lending it to be made an instrument of fraud in the hands of the enemy, he must sustain the consequences of such misconduct on the part of his agent;" *The Baltic*, 1 Acton, 25, where the ship was condemned because "the owner must have been aware of the fraud intended, if not a confidential party to it;" *The Jonge Margaretha*, 1 Rob., 189; *The Mercurius*, 1 Rob., 288, and note; *The Jonge Tobias*, 1 Rob., 329; *The Neptunus*, 3 Rob., 108; *The Eenrom*, 2 Rob., 1; *The Edward*, 4 Rob., 68; *The Oster Roser*, 4 Rob., 200; *The Carolina*, 4 Rob., 260; *The Richmond*, 5 Rob., 325; *The Charlotte*, 5 Rob., 275; *The Ringende Jacob*, 1 Rob., 89; *Carrington* vs. *The Merchants' Ins. Co.*, 8 Pet., 520.)

XI.

The concealment at the time of capture, by the orders of Chadwick, of the important and criminating letters to him, and the failure of Captain Dyett to produce at that time the letters from S. Isaac, Campbell & Co. to himself and Helm, raise a strong presumption of the fraudulent and illegal character of the voyage, and concur with the other criminating facts in the case in justifying the condemnation of both vessel

and cargo. (*The Hunter*, 1 Dodson, 480; *The Pizarro*, 2 Wheat., 227; *The Two Brothers*, 1 Rob., 131; *Bernardi* vs. *Motteaux*, Doug., 554; *The Rising Sun*, 2 Rob., 104; *The Concordia*, 1 Rob., 119.)

XII.

On the various grounds stated, the decree of the district court should be affirmed.

JAMES SPEED,
Attorney General.
TITIAN J. COFFEY,
Special Counsel for the U. S.

DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

THE UNITED STATES
vs.
THE SCHOONER STEPHEN HART and her cargo. } In prize.

Opinion of the court.

BETTS, J. The schooner Stephen Hart was captured, as lawful prize of war, by the United States vessel-of-war Supply, on the 29th of January, 1862, in latitude 24° 12′ north and longitude 82° 14′ west, off the southern coast of Florida about 25 miles from Key West, and about 82 miles from Point de Yeacos, in Cuba, and was sent to the port of New York for adjudication, under convoy of her captor. A libel was filed against her in this court on the 18th of February, 1862. On the first of May, 1862, a claim to the vessel was interposed by John Myer Harris, of Liverpool, England, as her sole owner. The test oath to that claim was made by Charles N. Dyett, the master of the schooner. On the same day a claim was put in to the whole of the cargo of the schooner by Samuel Isaac, on behalf of himself and Saul Isaac, as co-partners and subjects of Great Britain, doing business in England under the firm name of S. Isaac, Campbell & Co., and claiming to be the sole owners of the cargo. The test oath to that claim was made by Samuel Isaac. On the 25th of October, 1862, another claim to the schooner on behalf of Harris was interposed. In this second claim Harris is described as late of Liverpool, England, but now of Sherbro', on the western coast of Africa at present residing in England, merchant. This second claim sets up that he is the sole owner of the schooner, and is a subject of the crown of Great Britain.

In the test oath to the second claim of Harris, and which test oath is made by him, it is alleged that, on the 28th of Sep-

tember, 1861, he agreed to become the purchaser of the schooner for £1,750, to be paid October 28, 1861; that it was afterwards arranged that the money should be paid on the 14th of October; that an abatement of £5 10*s.* 3*d.* was thereupon made from the purchase-money; that the balance of £1,744 9*s.* 9*d.* was paid; that the vessel was at Bristol, England, at the time of her sale; that after such purchase she took a cargo from Bristol to London, and was then loaded, partly at London and partly at Erith, with a cargo of arms, ammunition and military clothing; and that such cargo was the sole property of S. Isaac, Campbell & Co. It is to be noted that this test oath does not state from whom he purchased the schooner, or to whom he paid the money, or whether he received any bill of sale. It is also silent as to any hiring or charter of the vessel to S. Isaac, Campbell & Co. It states that the vessel "cleared for the port of Cardenas;" that it was not intended that she should "enter, or attempt to enter, any port of the United States;" that "her true and only destination with said cargo was Cardenas, where the same was to be delivered;" that the vessel was thence to sail to the claimant in Africa, if she obtained a suitable cargo for that country; and that the vessel and her cargo are British property.

The test oath of Samuel Isaac to the claim, on behalf of S. Isaac, Campbell & Co., to the whole of the cargo, alleges that the cargo was shipped by that firm, consisting of himself and Saul Isaac, on or about December 2, 1861, partly at London and partly at Erith; that the vessel was bound for Cardenas in the Island of Cuba; that the cargo consisted of arms, ammunition, and military clothing, and is wholly the property of that firm; that its members are British subjects; that the vessel cleared for Cardenas; that the cargo was destined for Cardenas; that it was not intended that the vessel should "enter, or attempt to enter, any port of the United States, or that the

cargo should be delivered at any port in the United States;" and that "the true and only destination was Cardenas, where the same was to be delivered, and the vessel was thence to sail to Africa, if she obtained a suitable cargo for that country." It does not set up any charter of the vessel.

The testimony *in preparatorio*, consisting of the depositions of Charles N. Dyett, (the master,) Benjamin H. Chadwick, (the first mate,) John Leisk, (the cook and steward,) Charles Nellman, (the second mate,) and Robert Allan, (an able seaman,) was taken in February, 1862. The case was not submitted to the judgment of the court until the term of July, 1863. It was suggested at the hearing, in excuse of what seemed to be the great delay in the case, that such delay was owing to the pendency before the Supreme Court of the United States, on appeal, until March last, of various prize suits, which it was supposed might dispose of material questions involved in this case. But, from such report of the decisions in those cases as this court has been furnished with, it does not appear that the main questions involved in the present case have been determined by the Supreme Court in any of the cases alluded to.

Various interlocutory proceedings took place in the present case, a reference to some of which is necessary.

Before the filing of the libel, and on the 14th of February, 1862, this court ordered that so much of the cargo of the schooner as consisted of arms, powder, and munitions of war, should be placed in the custody of the commandant of the navy-yard at New York, and that the prize commissioners should make a full inventory of all the articles delivered to the commandant, and that they should be appraised, and the appraisement be filed with the inventory. In pursuance of this order, the appraiser appointed by the court, Mr. Orison Blunt, discharged the cargo of the schooner, and stored it in the ord-

nance stores at the navy yard. In his report, which was filed on the 25th of March, 1862, he states that, in unloading the vessel, he did not have the benefit of any invoice; that he took an accurate account of every case, box and bale, and of their numbers and marks; that the vessel was stowed with great care, and the bales and cases pressed in with jackscrews, which made great precaution necessary in taking them out, for fear of an explosion of some of the ammunition or loaded shell; that, upon opening the after-hatch and taking out some of the cases, he discovered some four tons of powder, and also 1,008 loaded shell, with percussion primers affixed, and some 600,000 ball cartridges, or fixed ammunition for small-arms, which were all removed and placed in the magazines of the navy yard that, after all the cargo had been placed in the ordnance stores without any loss or damage, he opened every entire case and bale, and inspected and counted accurately every article, and found them to be all in good condition, and that every article was of value for use in the army and navy of the United States, except a large quantity of "rebel buttons," manufactured in Great Britain and stamped with a "rebel device." The appraiser annexed to his report a catalogue of the cargo and his appraisement of each article. The following articles appear to have constituted the cargo of the vessel: 5,740 long Enfield rifles, with triangular bayonets; 1,260 short Enfield rifles, with sabre bayonets; 660 rifled Enfield carbines, with sabre bayonets; 2,640 British rifled muskets, with triangular bayonets; 200 British smooth-bore muskets, with triangular bayonets; 320 Brunswick rifles, with sabre bayonets; 375 cavalry sabres; 6,800 gray blankets; 1,750 white blankets; 4 of Blakeley's 2¾-inch bore rifled cannon, (six pounders,) with 2,000 cartridge bags and 1,008 shell for the same, loaded and capped; 120,000 cartridges, fixed ammunition for Enfield rifles; 100,000 percussion caps; 2,160 cartridge boxes; 4,095

knapsacks; 4,000 ball bags and belts; 100,000 Brunswick rifle cartridges; 410,000 Minie rifle cartridges; 5,000 cartridges for smooth-bore English muskets, each cartridge consisting of a round ball and two buck-shot; 1,540 yards of gray army cloth; 11,453 yards of steel-mixed gray army cloth for uniforms; 625 gross of brass buttons "for infantry, artillery and cavalry, for the rebel army, marked C. S. A;." 15,432 pairs of stockings; 2,000 pairs of brogan shoes; 592 pairs of russet shoes, Blucher pattern; 762 pairs of black leather shoes, Blucher pattern; 2,220 water-proof covers for mess tins; 17 cases and 3 bales of trimmings for army clothes and uniforms, consisting of linings, cord, braid, lace, thread, buckram, &c., 109 yards of scarlet cloth for army uniforms; 7,500 yards of white twilled flannel for lining for army overcoats; 2,250 yards of brown holland for the same purpose; 1,040 gross of buttons for army uniforms and clothing; 7,800 pounds of cannon powder, and a considerable quantity of cartridge paper, cones, and other appurtenances for small-arms, gun-slings, medicine, lint, bayonet scabbards, surgeons' equipments, scissors, thimbles, hooks and eyes, shears, canvas lining, alpaca and tarpaulings. The appraisement of the entire cargo was $238,945 37.

Under orders of this court of the 3d of March and 16th of April, 1862, the Enfield rifles and certain other articles found on board of the schooner were delivered to the Navy Department for the use of the United States, at the appraised value of $169,467 50. By another order of the court, made March 4, 1862, another portion of the cargo, amounting to the appraised value of $14,196 11, was delivered to the War Department, the Ordnance department, and the sanitary department, for the use of the United States.

Under an order of this court, made on the 7th of May, 1862, the schooner and the remainder of her cargo, which remainder

amounted, at its appraised value, to $55,281 76, were sold at public auction. The vessel was sold for $10,000. The proceeds of the vessel and of her cargo, including the amounts paid by the Navy and War Departments for the articles taken by them, were paid into the registry of the court.

After the cook and steward, John Leisk, had been examined on the 13th of February, 1862, an affidavit made by him on the 25th of February, 1862, was presented to the court, in which he stated that, in giving his testimony before the prize commissioners, he did not fully answer the 32d interrogatory in relation to certain papers on board, and their description, and what was said on their being discovered, although he had testified to those facts on an examination made of him on board of the capturing vessel. An order was thereupon made by the court on the same day, on the motion of the district attorney, that the 32d standing interrogatory be propounded anew to the witness Leisk, and that his additional answer thereto be received and added to his deposition, with the like force and effect as if the same had been taken at the time of his original examination. On the same day that interrogatory was again propounded to him, and his further answer thereto forms part of the depositions *in preparatorio*.

On the 24th of October, 1862, the court, on the motion of the district attorney, made an order that Benjamin H. Chadwick, the first mate, who had been examined *in preparatorio*, on the standing interrogatories, on the 13th of February, 1862, should be again examined by the prize commissioners on the standing interrogatories, and that the question of the admissibility of his evidence so to be given should stand over for future determination. This order was founded upon an affidavit made by Chadwick on the 21st of October, 1862, in which he stated that he was one of the persons captured on the Stephen Hart,

and was entered upon her shipping articles as her first mate, although in fact he was intrusted with the virtual control; that he had examined a copy of his testimony given by him on his examination on the 13th of February, 1862, and found that his answers to the 11th, 36th and 39th interrogatories, as well as to any others which asked for the true destination of the vessel and her cargo, on the voyage on which she was captured, were imperfect, and did not disclose the entire truth in relation to the subject-matter inquired of, and that he desired the privilege of correcting the same on a re-examination, by stating that he well knew that the real destination of the cargo of the vessel, if not of the vessel herself, was one of the blockaded confederate ports of the southern States, and that the port of Cardenas, in Cuba, was to be used simply as an intermediate port of call and of transshipment of the cargo, if it was there determined by Charles J. Helm, an agent there of the Confederate States, whose instructions the witness was directed to follow, that the cargo should be transshipped into a steamer, which could, with greater facility, be used in running the blockade; that the witness was employed for that purpose by reason of his knowledge of the southern coast, and of the navigation of the blockaded ports and harbors, and was so employed after his examination specially on that point at the counting-house of S. Isaac, Campbell & Co., the owners of the cargo, in London, where, at the time, were William L. Yancey and other persons interested in the southern insurrection; that he, the witness, had been in no manner influenced to make such disclosure by the libellants or the captors, or any one in any manner connected with either of them, but had been induced to do so solely by the persuasions of his wife, who was a loyal woman then residing in Boston, and whose just reproaches had caused him to regret that he had ever lent his aid to such a cause, and to determine, as far as he could,

to atone for whatever mischief he might have done. Upon the hearing of the motion for the further examination of Chadwick, the application was opposed by the claimants of the cargo, upon an affidavit made by Chadwick on the 6th of May 1862, in which he stated that certain letters and papers be longing to him were seized by the captors, and retained by them until the 28th of April, 1862, when, without any application to the court, a portion of them were taken from the rest of the papers seized on board of the schooner, and handed over to him by Mr. Elliott, one of the prize commissioners; that the letters so handed to him were a part of the letters mentioned in the examination *in preparatorio* of John Leisk, and stated by Leisk to have been placed by him in a tea-pot at the request of Chadwick, and to have been afterwards discovered by the crew of the capturing vessel. The court was subsequently furnished with an affidavit made by Mr. Elliott, in which he stated that, after the arrival of the schooner at New York, one of the officers in charge of her placed in his hands some letters which he represented to be private papers belonging to Chadwick; that those letters were not presented by the prize-master as a part of the papers seized with the schooner as her papers, but as private letters belonging to Chadwick; that, under the advice of the assistant district attorney, and at the request and with the consent of Chadwick, the deponent carefully read the letters, and found them to be only private letters to Chadwick from his wife, and that there was not in them one word relating to the schooner, or her cargo, or her voyage, or her destination; and that thereupon, on the further advice of the assistant district attorney, the letters were handed to Chadwick as his private property, several months before his re-examination, and with no reference thereto, and with no knowledge or suspicion that any such re examination would ever occur.

There were found on board of the schooner, at the time of her capture, her register and sundry bills, certificates, telegraphs and letters, a clearance, two log-books, a copy of the United States Coast Survey for 1856, and sundry other papers, but no invoices, no bills of lading, and no manifest.

The register of the schooner is dated at Liverpool, England, October 15, 1861. It represents her as having been built at Greenport, in the State of New York, in the United States, in the year 1859, and her foreign name as having been Tamaulipas. Her tonnage is stated at 219.85 tons. Her owner is stated to be John Myer Harris, of Liverpool, merchant. The register contains the following printed memorandum at its foot: "Notice.—A certificate of registry granted under the merchant shipping act of 1854, is not a document of title." On the back of the register is indorsed a certificate, made at the custom-house in London on the 15th of November, 1861, stating that Charles N. Dyett had that day been appointed master of the schooner.

There were also found on board of the schooner a letter signed "R. H. Leonard, ship Alexander, Confederate States," dated at Bristol, England, October 29, 1861, and addressed to Chadwick; and a letter from Leonard addressed "To Mr. B. H. Chadwick, alias Tommy, first officer Stephen Hart," purporting to be written at Bristol, England, but without date; and a letter signed "John Johnson, ship Naomi, care J. P. Snell & Co., Bristol, England," and addressed "Mr. Benjamin H. Chadwick, schooner Stephen Hart, Surrey Canal, London," and dated at Bristol, England, October 29, 1861. The contents of these three letters will hereafter be specially referred to.

By sundry certificates found on board of the schooner, it appears that she cleared from London on the 19th of November, 1861, for Cuba generally, neither the port of Cardenas

nor any other port in Cuba being mentioned as her destination in any of her regular papers.

There was also found on board of the schooner a letter in the following words: "71 Jermyn street, London, S. W., November 19, 1861. J. Crawford, esq're, H. M. Consul General, Havannah. Dear Sir: In confirmation of my last, permit me to ask your assistance and advice for Captain Dyett, of the schooner Stephen Hart, should he need it during his stay at Havannah. Permit me to be yours, most faithfully, Saul Isaac."

There was also found on board of the schooner a telegraphic despatch from S. Isaac, Campbell & Co., 71 Jermyn street, London, to Lloyd's agent at Deal, received at Deal November 23, 1861, in the following words: "Please detain schooner Stephen Hart, bound for Cardenas, for orders. We pay all expenses. Reply per telegraph. Letter per post." There was also found a letter dated "London, Nov. 22, 1861," in the following words: "Captain Dyett, schooner Stephen Hart. Dear Sir: We require some matters arranged before the schooner leaves. You will receive this per Lloyd's agent. Attend to the orders, and wait until you hear from yours truly, S. Isaac, Campbell & Co." There was also found another telegraphic despatch from S. Isaac, Jermyn street, London, to Lloyd's agent at Deal, received at Deal November 24, 1861, in the following words: "Captain Dyett will proceed on his voyage at once, and make up for lost time. Wish him a successful trip."

The shipping articles of the crew of the schooner, found on board, are dated November 16, 1861, and specify that the voyage is to be "from London to Cuba and Sierra Leone, and any port $\frac{\text{and}}{\text{or}}$ ports on coast of Africa, $\frac{\text{and}}{\text{or}}$ North $\frac{\text{and}}{\text{or}}$ South America $\frac{\text{and}}{\text{or}}$ West Indies, and back to a final port of discharge

in the United Kingdom. Voyage not to exceed twelve months. On these shipping articles the name of Benjamin H. Chadwick is entered as chief officer, his signature appearing upon them; and he is stated to be an American, aged twenty-nine years, and to have last served on board the vessel called the Tamaulipas, and to have been discharged therefrom at London on the 2d of November, 1861. The date of his joining the Stephen Hart is stated as November 1, 1861, although he is placed in a list under the head of "substitutes," with two others who are severally stated as joining the vessel November 22 and November 29, and no place is inserted as the place of his joining the vessel, although the place is inserted in the case of the other two substitutes. The wages of Chadwick are put down as £9 per calendar month, the wages of the mate, whose place he took, being stated at £6 per month. In one of the two log-books found on board of the vessel, namely, the official log-book, the name of Benjamin H. Chadwick appears as mate of the vessel, and no other person is named as mate; and the date of the commencement of the voyage is stated in that log-book as November 19, 1861. In the other log-book, which is an ordinary sea log-book, there appears, under date of November 21, 1861, an entry in the handwriting of Chadwick, by whom that log-book purports on its face to have been kept, to the effect that the mate had not come to perform his duty, and the log-book then proceeds as follows: "Wherefore I, Benj. H. Chadwick, have this day engaged with Capt. Charles N. Dyett to proceed on the voyage, having been engaged as ship-keeper on board since the 2d of the present month, the crew consisting of six seamen, cook and steward, captain, mate, and boatswain—in all numbering ten persons." The shipping articles show eleven persons, there being seven seamen, one of the seamen, as appears by the official log-book, having been shipped at Gravesend on the 22d of November.

and discharged because of illness, at Deal, on the 29th of November, and another seaman having been shipped at Deal in his place on the last named day. The name of one seaman which appears on the shipping articles does not appear on the official log-book, and there is a memorandum on the shipping articles that he deserted. This reduces the number of persons composing the crew to ten, including Chadwick.

The entry on the title-page of the sea log-book is, that the schooner was on a voyage from London to Cardenas, Cuba, commencing November 19, 1861, and that the log-book is kept by Benjamin H. Chadwick. It appears, from entries in that log-book, that the pilot took charge of the schooner "on a voyage to Cuba," on the 19th of November, and that she was on that day "towed by steam from the Grand Surrey dock to Erith, to take in the remainder of cargo," and that she arrived at Erith the same day; that on the 20th of November she took in from lighters some sixty cases of cargo, and that, on the evening of the same day, she was towed to Gravesend; that she remained at Gravesend until the 22d of November, when she proceeded down the river, coming to anchor, in the afternoon, off the North Foreland light; that on the 23d of November she proceeded to the Downs, where she came to anchor, and where the "captain received instructions from parties in London" to wait until further orders; that on the 24th of November she received orders to proceed on her voyage; that she did not start until the 2d of December, her sea-log commencing at noon on the 3d of December; that she pursued her voyage through December and January, no particular occurrence being noted until the 15th of January, when she passed 18 miles to the northeast of Desirada island, one of the Leeward Islands in the West Indies, and also between the island of Guadaloupe and the island of Montserrat, in the latitude of about 16° 30′ N.; that from this point she proceeded to

the southward of Hayti and to the northward of the island of Jamaica, passing the latter on the 21st of January, and thence to the southward of the Grand Cayman island on the 23d of January, and thence around the western end of the island of Cuba, making Cape St. Antonio, the extreme western point of that island, at 3.30 p. m. on the 26th of January, and seeing the last of Cape St. Antonio light, 20 miles distant, bearing south half east, at 10 p. m. of that day, her latitude, by observation at noon on the 27th of January, being 23° 24′ north. There are no entries in the log-book after the latter hour.

The Coast Survey found on board of the schooner, as before mentioned, is a report from Professor Bache, superintendent of the United States Coast Survey, for the year ending November 1, 1856, and contains, among other things, the following charts: a comparative chart of the entrance into Charleston harbor by Maffit's channel; a preliminary chart of the entrance into North Edisto river; a preliminary chart of the sea-coast of South Carolina, from Charleston to Tybee, Georgia, with sailing directions; a preliminary chart of St. Simon's bar and Brunswick harbor; a preliminary chart of St. Mary's bar and Fernandina harbor; a comparative chart of the same; two charts of St. John's river; and a preliminary chart of the Florida reefs. These charts, as folded in the book, have each of them written in pencil on the outside the nature of its contents, thus: "Maffit's channel;" "North Edisto;" "Sailing directions for several So. Ca. & Ga. ports;" "St. Simon's;" "Fernandina;" "St. John's river;" "Florida reefs."

Captain Dyett, on his examination *in preparatorio*, produced two letters, which are annexed to his deposition. One of them is a letter of instructions to himself from S. Isaac, Campbell & Co., and is dated "71 Jermyn street, Military Warehouse, late 21 St. James street, London, S. W., November 19, 1861;" and

the other is a letter from Saul Isaac to "Charles J. Helm, esq., care of J. Crawford, esq., Havana," and is dated "71 Jermyn street, London, November 19, 1861." The contents of these two letters, and the circumstances under which they were produced by Captain Dyett, will be referred to hereafter.

Before proceeding to a consideration of the merits of the case, it is proper to advert to the objections made to the second examinations of the witnesses Leisk and Chadwick. The question of the admissibility of the second deposition of Chadwick was ordered by the court to stand over to be determined at the hearing of the main cause. The question of the admissibility of depositions given on the re-examination of persons found on board of a captured vessel is one resting in the sound discretion of the court, and no authority has been cited which decides that the practice is one that is not to be permitted under circumstances such as existed in the present case. The case of the Pizarro (2 Wheaton, 227) is not regarded as an authority against the course pursued in this case. While the court ought to guard the practice with care, lest it may be the means of introducing abuse and of leading to fraud and imposition, the present case seems, on the fullest consideration, to be one in which the propriety of admitting the re-examination of the witnesses Leisk and Chadwick cannot be questioned. If the case, upon the depositions as originally taken, without the re-examinations of the two witnesses, were a clear one in favor of the claimants, and free from all doubt, the court would hesitate, perhaps, to admit the re-examinations. But, upon the testimony without the re-examinations, the case is not only not one free from doubt, but one clearly calling for the condemnation of both the schooner and her cargo; and the matters testified to by these witnesses upon their re-examinations are not only entirely consistent in themselves, but are cor-

oborated by the other testimony in the case, and by the documents and papers found on board of the schooner. The cases which were cited by the counsel for the claimants upon the point of the admissibility of depositions taken on re-examination, (The Haabet, 6 Ch. Rob., 54; The Ostsee, Spinks, Part 1, 189; The Leucade, Id., 227; The Aline and Fanny, Spinks, Part 2, 327) do not bear at all upon the question as to the admissibility of these re-examinations. They merely affirm the well-known principles of prize law, that affidavits of the captors are not to be admitted where, on the evidence of the persons on board of the captured vessel, there are no circumstances of suspicion in the case; that the case is, in the first instance, to be tried on evidence coming from the captured; that if, upon such evidence, no doubt arises, the property is to be restored; and that the privilege on the part of the captors of giving further proof is, in such cases, rarely granted. Within these principles this court has endeavored, in all proper cases, to exhaust the knowledge of the persons found on board of captured vessels. Thus, in the case of the Peterhoff, pending in this court at the same time with the present case, the deposition of Captain Jarman, the master of the captured vessel, had been taken on the 1st of April, 1863, he having intervened as claimant for the interest of his principals, the owners of the Peterhoff and her cargo, and having made the test oath to such claim on the 21st of April, 1863. Some of the other witnesses having deposed to the spoliation of papers in the case, the court, upon an affidavit made by Captain Jarman, and upon the application of the claimants, and notwithstanding the objections of the counsel for the libellants and the captors, permitted Captain Jarman to be re-examined upon one of the standing interrogatories, and to add to his answer thereto the explanatory statement contained in his affidavit. This expla-

nation, and the matters deposed to by him on his further examination, were intended to relieve the owners of the Peterhoff and her cargo from the injurious effects of his concealment, on his first examination, of matters which ought to have been testified to by him in answer to the standing interrogatories, and of matters which were testified to by other witnesses. The court is entirely satisfied that it exercised its sound discretion in permitting the re-examination in the case of the Peterhoff, and the exercise of a like discretion calls for the admission in evidence of the depositions of Leisk and Chadwick, taken on re-examination in the present case. They are accordingly admitted in evidence.

Very important questions of public law have been discussed before the court in the present case, and in the kindred cases of the Springbok and the Peterhoff, all of which, with the case of the Gertrude, have been pending before the court at the same time. In the latter case no claimant appeared for either the vessel or the cargo, she having been captured while on a voyage from Nassau, in endeavoring to run the blockade into a port of the enemy.

Many of the principal questions involved in the present case, and in the cases of the Springbok and the Peterhoff, are alike; and, as the conclusion at which the court has arrived in all of those cases is to condemn the vessels and their cargoes, I shall announce in this case the leading principles of public law which lead to a condemnation in all the cases.

On behalf of the libellants it is urged in this case, 1st, that the Stephen Hart and her cargo were enemy's property when the voyage in question was undertaken and when the capture was made; 2d, that the schooner was laden with articles contraband of war, destined for the aid and use of the enemy, and on transportation by sea to the enemy's country at the time of

the capture; 3d, that, with a full knowledge on the part of the owner of the vessel and of the owners of her cargo that the ports of the enemy were under blockade, the vessel and her cargo were despatched from a neutral port with an intention on the part of the owners of each that, in violation of the blockade, both the vessel and her cargo should enter a port of the enemy.

On the part of the claimants it is maintained, 1st, that the transportation of all articles, including arms and munitions of war, between neutral ports in a neutral vessel, is lawful in time of war; 2d, that if a neutral vessel, with a cargo belonging to neutrals, be in fact on a voyage from one neutral port to another, she cannot be seized and condemned as lawful prize, although she be laden with contraband of war, unless it be determined that she was actually destined to a port of the enemy upon the voyage on which she was seized, or unless she is taken in the act of violating a blockade.

It is insisted on the part of the claimants that the Stephen Hart was, at the time of her capture, a neutral vessel, carrying a neutral cargo from London to Cardenas—both of them being neutral ports—in the regular course of trade and commerce. On the other side it is contended that the cargo was composed exclusively of articles contraband of war, destined, when they left London, to be delivered to the enemy either directly, by being carried into a port of the enemy in the Stephen Hart, or by being transshipped at Cardenas to another vessel; that Cardenas was to be used merely as a port of call for the Stephen Hart, or as a port of transshipment for her cargo; that the vessel and her cargo are equally involved in the forbidden transaction, and that the papers of the vessel were simulated and fraudulent, in respect to her destination and that of her cargo. A condemnation is not asked, if the cargo was in fact neutral property, to be delivered at Cardenas

for discharge and general consumption or sale there, but is only claimed if the cargo was really intended to be delivered to the enemy at some other place than Cardenas, after using that port as a port of call or of transshipment, so as to thus render the representations contained in the papers of the vessel false and fraudulent as to the real destination of the vessel and her cargo.

It would scarcely seem possible that there could be any serious debate as to the true principles of public law applicable to the solution of the questions thus presented; and, indeed, the law is so well settled as to make it only necessary to see whether the facts in this case bring the vessel and her cargo within the rules which have been laid down by the most eminent authorities in England and in this country.

The principles upon which the government of the United States, and the public vessels acting under its commission, have proceeded during the present war in arresting vessels and cargoes as lawful prizes upon the high seas, are very succinctly embodied in the instructions issued by the Navy Department on the 18th of August, 1862, to the naval commanders of the United States, and which instructions are therein declared to be a recapitulation of those theretofore from time to time given. The substance of those instructions, so far as they are applicable to the present case, is that a vessel is not to be seized "without a search carefully made, so far as to render it reasonable to believe that she is engaged in carrying contraband of war for or to the insurgents and to their ports, directly or indirectly by transshipment, or otherwise violating the blockade."

The main feature of these instructions, so far as they bear upon the questions involved in this case, is but an application of the doctrine in regard to captures, laid down by the government of the United States at a very early day. In an ordi-

nance of the Congress of the Confederation, which went into effect on the 1st of February, 1782, (5 Wheaton, appendix, p. 120,) it was declared to be lawful to capture and to obtain condemnation of "all contraband goods, wares and merchandises, to whatever nations belonging, although found in a neutral bottom, if destined for the use of an enemy."

The soundness of these principles, and the fact that the law of nations, as applicable to cases of prize, has been observed and applied by the government of the United States and its courts during the present war, was fully recognized by Earl Russell, her Britannic Majesty's principal secretary of state for foreign affairs, in his remarks made in the House of Lords on the 18th of May last. Earl Russell there stated that the judgments of the United States prize courts, which had been reported to her Majesty's government during the present war, did not evince any disregard of the established principles of international law; that the law officers of the crown, after an attentive consideration of the decisions which had been laid before them, were of opinion that there was no rational ground of complaint as to the judgments of the American prize courts; and that the law of nations in regard to the search and seizure of neutral vessels had been fully and completely acknowledged by the government of the United States. On the same occasion, Earl Russell remarked: "It has been a most profitable business to send swift vessels to break or run the blockade of the southern ports, and carry their cargoes into those ports. There is no municipal law in this or any country to punish such an act as an offence. I understand that every cargo which runs the blockade and enters Charleston is worth a million of dollars, and that the profit on these transactions is immense. It is well known that the trade has attracted a great deal of attention in this country from those who have a keen eye to such gains, and that ves-

sels have been sent to Nassau in order to break the blockade at Charleston, Wilmington and other places, and carry contraband of war into some of the ports of the southern States." He added: "I certainly am not prepared to declare, nor is there any ground for declaring, that the courts of the United States do not faithfully administer the law; that they will not allow evidence making against the captors; or that they are likely to give decisions founded, not upon the law, but upon their own passions and national partialities." He also said, that in a case of simulated destination—that is, a vessel pretending that she is going to Nassau, when she is in reality bound to a port of the enemy—the right of seizure exists.

The then golicitor-seneral of England (Sir Roundell Palmer) stated in the House of Commons on the 29th of June last, referring to the cases of the Dolphin and the Pearl, decided by the judge of the district court for the southern district of Florida, (those vessels having been captured while ostensibly on voyages from Liverpool to Nassau, and it having been held by the court that the intention of the owners of the vessels was that they should only touch at Nassau, and then go on and break the blockade at Charleston,) that "if the owners imagined that the mere fact of the vessel touching at Nassau, when on such an expedition, exonerated her, they were very much mistaken;" that the principles of the judgment in the case of the Dolphin "were to be found in every volume of Lord Stowell's decisions;" that it was well known to everybody that there was a large contraband trade between England and America by way of Nassau; that it was absurd to pretend to shut their eyes to it; and that the trade with Nassau and Matamoras had become what it was in consequence of the war.

The Foreign Office of Great Britain, in a letter to the owner of the Peterhoff, on the 3d of April last, announced as its con-

clusion, after having communicated with the law officers of the crown, that the government of the United States has no right to seize a British vessel bona fide bound from a British port to another neutral port, unless such vessel attempts to touch at, or has an intermediate or contingent destination to, some blockaded port or place, or is a carrier of contraband of war destined for the enemy of the United States; that her Majesty's government, however, cannot, without violating the rules of international law, claim for British vessels navigating between Great Britain and such neutral ports any general exemption from the belligerent right of visitation by the cruisers of the United States, or proceed upon any general assumption that such vessels may not so act as to render their capture lawful and justifiable; that nothing is more common than for those who contemplate a breach of blockade or the carriage of contraband to disguise their purpose by a simulated destination and by deceptive papers; and that it has already happened, in many cases, that British vessels have been seized while engaged in voyages apparently lawful, and have been afterwards proved in the prize courts to have been really guilty of endeavoring to break the blockade, or of carrying contraband to the enemy of the United States.

The cases of the Stephen Hart, the Springbok, the Peterhoff, and the Gertrude, illustrate a course of trade which has sprung up during the present war, and of which this court will take judicial cognizance, as it appears from its own records and those of other courts of the United States, as well as from public reputation. Those neutral ports have suddenly been raised from ports of comparatively insignificant trade to marts of the first magnitude. Nassau and Cardenas are in the vicinity of the blockaded ports of the enemy, while Matamoras is in Mexico, upon the right bank of the Rio Grande, directly opposite the town of Brownsville, in Texas. The course of

trade, in respect to Nassau and Cardenas, has been generally to clear neutral vessels, almost always under the British flag, from English ports for those places, and, using them merely as ports either of call or of transshipment, to either resume new voyages from them in the same vessels, or to transship their cargoes to fleet steamers, with which to run the blockade, the cargoes being composed, in almost all cases, more or less, of articles contraband of war. The character and course of this trade, and its sudden rise, are very properly commented upon in a despatch from the Secretary of State of the United States to Lord Lyons, of the 12th of May, 1863.

The broad issue upon the merits in this case is, whether the adventure of the Stephen Hart was the honest voyage of a neutral vessel from one neutral port to another neutral port, carrying neutral goods between those two ports only, or was a simulated voyage, the cargo being contraband of war, and being really destined for the use of the enemy, and to be introduced into the enemy's country by a breach of blockade by the Stephen Hart, or by transshipment from her to another vessel at Cardenas. It is conceded in the argument of the leading counsel for the claimants, that if the property was owned by the enemy, and was fraudulently on its way to the enemy as neutral property, it was enemy's property, and was liable to capture, no matter whence it came or whither it was bound; and that, if the vessel were really intending and endeavoring to run the blockade, the property was liable to capture, no matter to whom it belonged or what was its character; but that if it was neutral property, in lawful commerce, it was safe from seizure.

The question whether or not the property laden on board of the Stephen Hart was being transported in the business of lawful commerce, is not to be decided by merely deciding the question as to whether the vessel was documented for and

sailing upon a voyage from London to Cardenas. The commerce is in the destination and intended use of the property laden on board of the vessel, and not in the incidental, ancillary and temporary voyage of the vessel, which may be but one of many carriers through which the property is to reach its true and original destination. If this were not the rule of the prize law, a very wide door would be opened for fraud and evasion. A cargo of contraband goods, really intended for the enemy, might be carried to Cardenas in a neutral vessel sailing from England with papers which, upon their face, import merely a voyage of the vessel to Cardenas, while, in fact, her cargo, when it left England, was destined by its owners to be delivered to the enemy, by being transshipped at Cardenas into a swifter vessel. And such, indeed, has been the course of proceeding in many cases during the present war.

Nor is the unlawfulness of the transportation of contraband goods determined by deciding the question as to whether their immediate destination was to a port of the enemy. Thus it is held that, in order to constitute the unlawfulness of the transportation of contraband goods, it is not necessary that the immediate destination of the vessel and cargo should be to an enemy's country or port; for, if the goods are contraband, and destined to the direct use of the enemy's army or navy, the transportation is illegal. If an enemy's fleet be lying, in time of war, in a neutral port, and a neutral vessel should carry contraband goods to that port, not intended for sale in the neutral market, but destined to the exclusive supply of the hostile forces, such conduct would be a direct interposition in the war, by furnishing essential aid in its prosecution, and would be a departure from the duties of neutrality. (Halleck on International Law, chapter 24, section 11, page 576.) The proper test to be applied is, whether the contraband goods are intended for sale or consumption in the neutral market, or

whether the direct and intended object of their transportation is to supply the enemy with them. To justify the capture, it is enough that the immediate object of the voyage is to supply the enemy, and that the contraband property is certainly destined to his immediate use. While it is true that goods destined for the use of a neutral country can never be deemed contraband, whatever be their character, and however well adapted they may be to the purposes of war, yet, if they are destined for the direct use of the enemy's army or navy, they are not exempt from forfeiture on the mere ground that they are neutral property, and that the port of delivery is also neutral. (1 Duer on Insurance, 630; The Commercen, 1 Wheaton, 388, 389.)

If the contraband cargo of the Stephen Hart had been destined for the use of the fleet of the enemy lying in the harbor of Cardenas, there could be no doubt that it might lawfully have been captured as prize of war on its way to Cardenas. And if the contraband cargo was really destined, when it left its port of departure in England, for the use of the enemy in the country of the enemy, and not for sale or consumption in the neutral port, no principle of the law of nations, and no consideration of the right and interests of lawful neutral commerce, can require that the mere touching at the neutral port, either for the purpose of making it a new point of departure for the vessel to a port of the enemy, or for the purpose of transshipping the contraband cargo into another vessel, which may carry it to the destination which was intended for it when it left its port of departure, should exempt the vessel or the contraband cargo from capture as prize of war. If it was the intention of the owner of the Stephen Hart, or of the owners of her cargo, having control of the movements of the vessel, that she should simply touch at Cardenas, and should proceed thence to Charleston or some other port of the enemy, her

voyage was not a voyage prosecuted by a neutral vessel from one neutral port to another neutral port, but a voyage which was, at the time of her seizure, in course of prosecution to a port of the enemy, although she had not as yet reached Cardenas, and although her regular papers documented her for a voyage from London to Cuba. Such a voyage was one begun and carried on in violation of the belligerent rights of the United States to blockade the ports of the enemy, and to prevent the introduction into those ports of arms and munitions of war. The division of a continuous transportation of contraband goods into several intermediate transportations, by means of intermediate voyages by different vessels carrying such goods, cannot make a transportation which is, in fact, a unit, to become several transportations, although to effect the entire transportation of the goods requires several voyages by different vessels, each of which may, in a certain sense and for certain purposes, be said to have its own voyage, and although each of such voyages, except the last one in the circuit, may be between neutral ports. Nor can such a transaction make any of the parts of the entire transportation of the contraband cargo a lawful transportation when the transportation would not have been lawful if it had not been thus divided. The law seeks out the truth, and never, in any of its branches, tolerates any such fiction as that under which it is sought to shield the vessel and her cargo in the present case. If the guilty intention that the contraband goods should reach a port of the enemy existed when such goods left their English port, that guilty intention cannot be obliterated by the innocent intention of stopping at a neutral port on the way. If there be, in stopping at such port, no intention of transshipping the cargo, and if it is to proceed to the enemy's country in the same vessel in which it came from England, of course there can be no purpose of lawful neutral commerce at the neutral

port, by the sale or use of the cargo in the market there; and the sole purpose of stopping at the neutral port must merely be to have upon the papers of the vessel an ostensible neutral terminus for the voyage. If, on the other hand, the object of stopping at the neutral port be to transship the cargo to another vessel, to be transported to a port of the enemy, while the vessel in which it was brought from England does not proceed to the port of the enemy, there is equally an absence of all lawful neutral commerce at the neutral port, and the only commerce carried on in the case is that of the transportation of the contraband cargo from the English port to the port of the enemy, as was intended when it left the English port. This court holds that, in all such cases, the transportation or voyage of the contraband goods is to be considered as a unit, from the port of lading to the port of delivery in the enemy's country; that, if any part of such voyage or transportation be unlawful, it is unlawful throughout; and that the vessel and her cargo are subject to capture, as well before arriving at the first neutral port at which she touches after her departure from England, as on the voyage or transportation by sea from such neutral port to the port of the enemy.

These principles were laid down and applied by the district court for the southern district of Florida in the case of the Dolphin and the Pearl, and the views of that court are fully adopted by this court, and are to be regarded as a part of the settled law governing prize tribunals. It is laid down in Halleck on International Law, (chapter 21, section 11, page 504.) that the ulterior destination of the goods determines the character of the trade, no matter how circuitous the route by which they are to reach that destination; that even where the ship in which the goods are embarked is destined to a neutral port, and the goods are there to be unladen, yet if they are to be transported thence, whatever may be the mode of conveyance,

to an enemy's port or territory, they fall within the interdiction and penalty of the law; that the trade from an enemy's country through a neutral port is likewise unlawful, and that the goods so shipped through a neutral territory, even though they may be unladen and transshipped, are liable to condemnation; that it is an attempt to carry on trade with the enemy by the circuitous route of a neutral port, and thus evade the penalty of the law; that the law will not countenance any such attempt to violate its principles by a resort to the shelter of neutral territory; that any such voyage is illegal at its inception; and that the goods shipped are liable to seizure at the instant it commences. The same doctrines are asserted in 1 Kent's Commentaries, (page 85, note a, 8th edition,) in 1 Duer on Insurance, (page 568, section 13,) and in Jecker *vs.* Montgomery, (18 Howard, 110, 115.)

The same principles are maintained by the English authorities. In Wildman's International Law, (vol. 2, page 20,) it is asserted that no exemption from the consequences of sending goods to the enemy will be gained by sending them through a neutral country; that the interposition of a prior port makes no difference; that all trade with the enemy is illegal; that the circumstance that the goods are to go first to a neutral port will not make the trade lawful; and that it is not competent, during a war, for a British subject to send goods to a neutral port with a view of sending them forward on his own account to an enemy's port, consigned by him to persons there, as in the ordinary course of commerce. These principles were laid down by Sir William Scott, in The Jonge Pieter, (4 Ch. Rob., 79.) The particular doctrine thus asserted had reference to the trading of British subjects with the enemy of Great Britain. But the reason of the doctrine makes it equally applicable to the case of a neutral attempting to send

contraband goods to an enemy of the United States through the interposition of a prior neutral port.

In the case of The Richmond, (5 Ch. Rob., 325,) an American vessel was seized in the port of St. Helena, and proceeded against as a prize on the ground that she was going, under a false destination, to the Isle of France, an enemy's port, with contraband articles concealed on board, and with a view of selling the vessel there as a vessel well adapted for a ship of war and for the service of privateering. Sir William Scott, in his judgment in the case, says: "It is difficult not to consider the Isle of France as the possible port of destination of this vessel, according to the original intention—I say, as the possible port, at least, if not the principal and absolute port of destination of the original voyage. It cannot be denied, undoubtedly, that an American ship might go to St. Helena, and from thence to the Isle of France, or any other port of the enemy, provided the cargo was of an innocent nature. If, on the contrary, the cargo was of a noxious character, the circumstance of merely touching at an English port would not alter the nature of a voyage in itself illegal." He then comes to the conclusion that the vessel had on board articles contraband of war—pitch and tar—and holds that there are strong grounds to presume that the original destination of those articles was absolutely to the Isle of France. "But," he adds, "supposing that it was only of a shifting nature, and that it was merely eventual; that, in law, would be quite sufficient, and that, at least, must be taken to have been the design of the parties." "If the intention was no more than this—'I will go and sell pitch and tar at St. Helena, if I can; and, if I cannot, I will go with them to the Isle of France and sell them there'—that is an unlawful purpose, and every step taken in the prosecution of such a design is an unlawful act. The interposition of an English port would not make it

innocent." "The pitch and tar were going with an original destination, either positive or eventual, to the Isle of France."

In the case of The Maria, (5 Ch. Rob., 365,) Sir William Scott says: "It is an inherent and settled principle that the mere touching at any port, without importing the cargo into the common stock of the country, will not alter the nature of the voyage, which continues the same in all respects, and must be considered as a voyage to the country to which the vessel is actually going for the purpose of delivering her cargo at the ultimate port." The doctrine here laid down is equally applicable to the cargo, where it is carried to the ultimate port in a different vessel from the one in which it is carried to the intermediate port.

In the case of The William, (5 Ch. Rob., 385,) on appeal before the Lords Commissioners of Appeal in Prize Cases, Sir William Grant, in delivering the judgment of the court, says: "Neither will it be contended that the point from which the commencement of a voyage is to be reckoned changes as often as the ship stops in the course of it; nor will it the more change because a party may choose arbitrarily, by the ship's papers or otherwise, to give the name of a distinct voyage to each stage of a ship's progress. The act of shifting the cargo from the ship to the shore, and from the shore back again into the ship, does not necessarily amount to the termination of one voyage and the commencement of another. It may be wholly unconnected with any purpose of importation into the place where it is done. Supposing the landing to be merely for the purpose of airing or drying the goods, or of repairing the ship, would any man think of describing the voyage as beginning at the place where it happened to become necessary to go through such a process? Again, let it be supposed that the party has a motive for desiring to make the voyage appear to begin at some other place than that of the original landing, and

that he therefore lands the cargo purely and solely for the purpose of enabling himself to affirm that it was at such other place that the goods were taken on board; would this contrivance at all alter the truth of the fact? Would not the real voyage still be from the place of the original shipment, notwithstanding the attempt to give it the appearance of having begun from a different place? The truth may not always be discernible; but when it is discovered, it is according to the truth, and not according to the fiction, that we are to give to the transaction its character and denomination. If the voyage from the place of lading be not really ended, it matters not by what acts the party may have evinced his desire of making it appear to have been ended. That those acts have been attended with trouble and expense, cannot alter their quality or their effect. The trouble and expense may weigh as circumstances of evidence to show the purpose for which the acts were done; but, if the evasive purpose be admitted or proved we can never be bound to accept, as a substitute for the observance of the law, the means, however operose, which have been employed to cover a breach of it. Between the actual importation by which a voyage is really ended, and the colorable importation which is to give it the appearance of being ended, there must necessarily be a great resemblance."

The cases of The Nancy (3 Ch. Rob., 122) and The United States (Stewart's Adm. Rep., 116) were cases in which a voyage, consisting of different parts, was held to be not two voyages, but one entire transaction, formed upon one original plan, conducted by the same persons, and under one set of instructions; and it was held that, in cases of contraband, especially when there is anything of fraud or concealment, a return voyage is to be deemed connected with an outward voyage.

It is equally well settled that the inception of the voyage completes the offence; that from the moment that the vessel,

with the contraband articles on board, quits her port on the hostile destination, she may be legally captured; that it is not necessary to wait until the ship and goods are actually endeavoring to enter the enemy's port; and that, the voyage being illegal at its commencement, the penalty immediately attaches, and continues to the end of the voyage, at least so long as the illegality exists. (Halleck on International Law, chapter 24, section 7, page 573; Wildman's International Law, vol. 2, page 218; 1 Duer on Insurance, 626, section 7.) The same doctrine is laid down by Sir William Scott, in the Imina, (3 Ch. Rob., 167,) and in The Trende Sostre, (6 Ch. Rob., 390, note.) In the Columbia, (1 Ch. Rob., 154,) Sir William Scott says, that the sailing with an intention of evading a blockade, is beginning to execute that intention, and is an overt act constituting the offence, and that from that moment the blockade is fraudulently invaded. The same view is maintained by him in The Neptunus, (2 Ch. Rob., 110.)

Such being the well-settled principles of public law in reference to the carriage of contraband goods to the enemy, it only remains to be seen whether the Stephen Hart and her cargo are liable to condemnation according to those principles. If she was, in fact, a neutral vessel, and if her cargo, although contraband of war, was being carried from an English port to Cardenas, for the general purpose of trade and commerce at Cardenas, and for use or sale at Cardenas, without any actual destination of the cargo, prior to the time of the capture, to the use and aid of the enemy, then most certainly both the vessel and her cargo were free from liability to capture.

The Stephen Hart was laden with a cargo composed exclusively of arms, munitions of war, and military equipments. It is urged, on the part of the claimants, that the vessel was a neutral carrier of the products of her own country, and of the

property of neutral merchants, from one neutral port to another. A strong appeal has been made to the court not to permit the United States, as a belligerent, to stop the manufactures and commerce of all other nations, or to dictate the mode in which their trade shall be carried on. It is said that a peaceful neutral may quicken his industry and his commerce, and multiply his gains, by the high prices caused by the demands of those belligerents who have exchanged the character of producers for that of consumers and destroyers; that British merchants may lawfully seek to supply the quickened demand at the new price, or become the carriers for those whose ships are exposed to capture; that if, for any reason, they may not sell to the enemy of the United States directly, then they may sell to others who may sell to him; that if they are unwilling to run the blockade, they may sell to those who are willing to take the risk; that if they may not sell to Charleston, they may sell to Cardenas, without troubling themselves with the question whether Cardenas will sell freely to those who may come from Charleston to buy; and that the national wealth of the United States has been largely increased, during the warfare of other nations, by the employment of its citizens as neutral carriers in just such lawful commerce. But a neutral merchant ought not to forget that the duties which the law of nations imposes on him flow from the same principle which ought to control the action of his government as a neutral government; that where he supplies to the enemy of a belligerent munitions or other articles contraband of war, or relieves, with provisions or otherwise, a blockaded port, he makes himself personally a party to a war in which, as a neutral, he has no right to engage; that, under such circumstances, his property is justly treated as the property of an enemy; and that the observance of those rules which the law of nations

prescribes for his conduct is a high moral duty. (1 Duer on Insurance, 754, 755, section 24.)

It is contended, on the part of the libellants, that the voyage of the Stephen Hart was originated and prosecuted with the illicit purpose of conveying to the enemy articles contraband of war, and of violating the blockade of a port of the enemy. It will conduce to a better understanding of the case to trace the previous history of the vessel, so far as we learn it from the evidence. She was built in the United States, and had been previously called the Tamaulipas. At the time the war broke out she was owned in New Orleans, which place she left in June, 1861, while that port was under blockade, although she was allowed to proceed on her voyage after her papers had been examined by a blockading vessel. Before she left New Orleans, and while that port was a port of the enemy and was under blockade, she was sold there, about May, 1861, to an English owner residing there. Chadwick testifies to this. He also says that he understood that this English owner, a person named Allen, gave a power of attorney to Captain Ackley, the then master of the vessel, who was in the employ of Allen, and who took the vessel to Cuba, and thence to England, authorizing him to sell her; and that she was sold in England to the claimant, Harris. All this appears upon the first examination of Chadwick. But no bill of sale of the vessel is produced either to Allen or to Harris; and there is no mention anywhere of the existence of any, not even in the test oath of Harris. Nor is there any proof of the payment of any consideration on either sale, other than hearsay evidence and the test oath of Harris. All the knowledge that Chadwick has on the subject of the sale to Harris is, (Ints. 14-37,) that Captain Ackley, the former master of the vessel, told him that he had sold the vessel to Harris for £2,000, and had got his money, or the drafts for it. Captain Dyett says, (Int-

14,) that the only way he knows that Harris is the owner is by seeing his name in the register as owner. Neither Captain Dyett nor Chadwick (Int. 15) know anything about any bill of sale of the vessel. Although, in the certificate of registry, which is dated at Liverpool, October 15, 1861, Harris is named as the owner, yet it is expressly stated in the certificate that that paper is not a document of title. Captain Dyett, says (Int. 7) that he was appointed to the command of the vessel on the 15th of November, 1861, he thinks, which was four days before she was cleared at the custom-house in London; that he was appointed to such command by Messrs. Isaac, Campbell & Co., of London, and that Mr. Saul Isaac, of that firm, delivered the vessel to him. No charter-party, chartering the vessel to the owners of the cargo, was found on board. Captain Dyett says (Int. 19) that there was no charter-party for the voyage, and Chadwick says (Int. 19) that he does not know of any charter-party. The only evidence of any payment by Harris for the vessel is his test oath to his claim. But in that test oath he does not state to whom he paid the purchase-money, nor does he state that any bill of sale of the vessel was delivered to him, nor is the power of attorney from Allen, under which the sale is alleged to have been made by Captain Ackley, produced, or its absence accounted for.

In the case of The Christine, (1 Spinks, 82,) during the recent war between England and Russia, where a vessel was claimed by one Schwartz, her master, as a citizen of Lubeck, and a neutral owner, he alleged that he had purchased her, just before the commencement of the war, from her Russian owners. Dr. Lushington says, in delivering the judgment of the court, after noting the fact that the master had been master of the vessel, under Russian colors, for eight months before the time of the alleged purchase: "This contract is a very

suspicious one, not only on the ground that it was immediately antecedent to the war, but also on the ground that it was a purchase by the master." "A party coming forward under such circumstances, and claiming the ship in a neutral character, is bound not only to produce, but to have on board, sufficient documents to satisfy the court that he possesses a *bona fide* title. I do not say that the court would bind him down to the production, in the first instance, of all the papers which it might ultimately deem necessary to induce it to pronounce for a restitution, but I do say that it ought to be a contract of that nature in itself, supported by such documents found on board, as would give the court good reason to suppose that, if the opportunity of producing further proof were allowed, it would give him a title to restitution; otherwise, further proof is a mockery." "There must be proof of payment in all cases where any suspicion arises as to the validity of the contract at the time of sale. It is quite vain to say, 'mine is a *bona fide* valid contract.' The money must have been paid before the master assumes the command, or ventures out on the high seas during war; otherwise, the ship would be liable to be condemned." "The title on which the master claims—the bill of sale—is not here. Now, this may be a *bona fide* claim. I do not decide whether it is or not, but I decide that it is not legal, according to the usage and practice of the court, and the laws which regulate the court in matters of prize. If this important paper, which is the sole title-deed, is not produced, what satisfaction can the court have? The title-deed to the ship should be on board of the ship. If further proof were allowed in this particular case, could the court feel satisfied that it would receive a genuine document? The case is teeming with suspicion throughout. Is there any one document whatever produced that can satisfy the court that the transaction was *bona fide*, independently of all the circum-

stances I have mentioned? Certainly there is one document." That document was a certificate showing that a ship's clearer appeared at Lubeck, and swore that he was lawfully authorized by the claimant by power of attorney, and that the vessel commanded by the claimant solely and *bona fide* belonged to him. Dr. Lushington proceeds: "So that this gentleman makes oath, by virtue of a power of attorney from Captain Schwartz, which power of attorney is not produced. I have simply this document, which in no degree corroborates the claim." He then adds, that in a case where the question in dispute is the *bona fides* of the sale, it has always been held that proof of actual payment was essential, and decides that he cannot allow further proof in the case, and that the vessel must be condemned.

In the case of The Sisters, (5 Ch. Rob., 155,) Sir William Scott says: "A bill of sale is the proper title to which the maritime courts of all countries would look. It is the universal instrument of transfer of ships, in the usage of all maritime countries, and in no degree a peculiar title-deed or conveyance, known only to the law of England. It is what the maritime law expects, and what the court of admiralty would, in its ordinary practice, always require."

As the Stephen Hart was built in the United States, she must, on the evidence, be held to have belonged at the commencement of the war to a citizen of New Orleans, and her transfer, after the blockade was established, to a British subject, a resident of New Orleans, not being in any manner proved by competent evidence, she was still, in judgment of law, enemy's property, and liable to capture as such. But, in addition to this, even if it were shown that she had, in fact, been legally transferred to Allen, a British subject, residing in New Orleans, yet, as the domicile of Allen was in the country of the enemy at the time of the transfer, his status follows the

character of that country in war, and the law of nations pronounces him an enemy. (The Pizarro, 2 Wheaton, 227; The Prize Cases, 2 Black, 635, 674.) Moreover, the transfer by Allen to Harris, even if that were sufficiently proved, having been made under a power of attorney, must, in judgment of law, be regarded as having been made at New Orleans, by Allen, a resident of New Orleans, and as of the time when the power of attorney was given, and thus, as having been made in a blockaded port of the enemy, in time of war, by a British resident there, and as leaving the vessel equally liable to capture as enemy's property. (The General Hamilton, 6 Ch. Rob., 61; The Two Brothers, 1 Ch. Rob., 131.)

There is, therefore, abundant ground for condemning the vessel, irrespective of any of the reasons connected with the traffic in which she was engaged at the time of her capture. And the like conclusions follow in respect to the cargo.

The cargo of the vessel, composed of arms, munitions of war and military equipments, is claimed as the sole property of S. Isaac, Campbell & Co., of London, who appear to be dealers in military goods. It is alleged by the claimants of the vessel and cargo that the real destination of the vessel and cargo was Cardenas, in the island of Cuba. But it is to be noted that the shipping articles specify the voyage as a voyage from London to Cuba, (Cuba generally, not Cardenas or any other port in Cuba,) and Sierra Leone, "and any port and (or) ports on coast of Africa, and (or) North and (or) South America and (or) West Indies, and back to a final port of discharge in the United Kingdom." All the other official papers found on board of the vessel, such as the receipt for the Dover harbor duties, the certificate of the shipping-master for the clearance, the receipt for light duties at London, the receipt for harbor duties at Ramsgate, the certificate from the searcher's office of the London custom-house, and the victualling bill, speak of the voyage

as one from London to Cuba. The telegraphic despatch of the 23d of November, 1861, from S. Isaac, Campbell & Co., to Lloyd's agent at Deal, speaks of the schooner as bound for Cardenas. The title-page of the ordinary log-book speaks of the voyage as one from London to Cardenas, Cuba. The label on the outside of that log-book has the blank for the place at which the voyage commenced filled up with the words, "London, England," but the blank for the place of destination is not filled up at all. The blanks at the tops of the pages of that log-book are only filled up on one page, although sixty-two pages of that log-book are occupied with entries of the progress of the voyage from the 19th of November, 1861, to and including noon of the 27th of January, 1862. The page referred to has, at the top, the voyage entered, as "from London towards Cuba." On the first page of that log-book, under date of November 19, 1861, there is an entry that the pilot "took charge of the schooner Stephen Hart on a voyage to Cuba." The title-page of the official log-book speaks of the voyage as being one to "Cuba and Sierra Leone." None of the letters found on board are addressed to any person at Cardenas. But there was found on board a letter from Saul Isaac to Mr. Crawford, the British consul-general at Havana, asking his "assistance and advice for Captain Dyett, of the schooner Stephen Hart, should he need it during his stay at Havannah."

The letter of instructions to Captain Dyett from S. Isaac, Campbell & Co., produced by Captain Dyett on his examination, directs him to proceed "to Cardenas, Cuba," and to report, on his arrival there, "to Charles J. Helm, Esq're, to whom you will consign yourself and vessel, and from whom you will receive all orders for your future actions with reference to the schooner and cargo, and you will be pleased to implicitly obey all orders given by Charles J. Helm, Esq're. * * * * * Mr. Helm may require the schooner for use.

at Havana. Should he do so, you will, at once, make the best arrangements for the immediate return to England of yourself and crew. Should, however, any one wish to remain in the employ of Mr. Helm, we have no objection to his doing so. In case Mr. Helm has no use for the vessel, after discharging the cargo, you will receive full instructions from Messrs. Isaac, Campbell & Co., by mail leaving this on the 2d proximo, for proceeding to the West Coast of Africa." The letter then directs Captain Dyett to deliver, without delay, on his arrival, the letters which he has for Mr. Helm and Mr. Crawford, and also, immediately on his arrival at Cardenas, to telegraph "to Cahuzac Brothers, Havana, who will, on receipt of message, communicate with you." The letter to Mr. Helm, thus referred to, was also produced by Captain Dyett on his examination, and is from Saul Isaac, and is addressed "Charles J. Helm, Esq're, care of J. Crawford, Esq're, Havannah." It says: "The bearer of this is Captain Dyett, of the schooner Stephen Hart, for whom I ask the favor of your good offices. Should he require assistance or advice during his stay at Havana, he will hand you his instructions from my house to read, and I feel assured that you will in all matters find him a good man."

It is very manifest, from these documents, that Mr. Helm, Mr. Crawford, and Cahuzac Brothers, the only parties named as having any concern in Cuba with the vessel or her cargo, were all of them to be found at Havana, and none of them at Cardenas, and that no person in Cardenas was consignee either of the vessel or the cargo; that it was contemplated that the vessel should go to Havana, if Mr. Helm required it, and be given up for use to Mr. Helm, at Havana, if he required it; that Captain Dyett was to obey the orders of Helm in all his actions with reference to the vessel and her cargo; that Captain Dyett and his crew were authorized to

remain in the employ of Mr. Helm, if any of them desired to do so; and that Mr. Helm was to have the control of the discharging of the cargo of the vessel, and the right to use the vessel after the cargo was discharged. It is also to be noted, that these instructions to Captain Dyett were not from Harris, the alleged owner of the vessel, but were from S. Isaac, Campbell & Co., who claim to be the owners of the whole of her cargo. No instructions whatever from Harris to Captain Dyett were found on board, nor is it pretended that he had any from Harris. Harris appears to have given up the entire control of the vessel and of her movements to S. Isaac, Campbell & Co.; and for these reasons, independently of all other considerations, the owner of the vessel must be held to have involved her in any illegality of which S. Isaac, Campbell & Co., or Captain Dyett have been guilty in respect to the cargo of the vessel, especially in view of the facts which Captain Dyett states, that he was put in command of the vessel by that firm, and that there was no charter-party for the voyage. (Jackson *vs.* Montgomery, 18 Howard, 110, 119.)

The conclusion is irresistible, from the contents of the three letters referred to, that there was no intention whatever of discharging the cargo of the vessel at Cardenas; and that, if discharged at all in Cuba, it was to be discharged at Havana. As no manifest, bills of lading or invoices, or any other papers, (except the letter of instructions to Captain Dyett,) giving any information as to the character of the cargo, or its owners, or its consignees, were found on board of the vessel, the conviction is forced on the mind that the cargo had a single ownership and a single destination; that that ownership was one represented by Mr. Helm as its agent; and that that destination was to the place where his principals resided, and where they would derive the most benefit from the cargo.

Who was Charles J. Helm? Captain Dyett (Int. 16) calls

him "Major Helm," and says that he resides in Havana. Chadwick, on his second examination, says (Int. 11) that Helm was the agent for the "Confederate States" in Cuba. This being so, it may very well be inferred that this cargo of arms and munitions of war was destined to be carried into the enemy's country, as we find the vessel and her cargo placed, by the orders of S. Isaac, Campbell & Co., within the entire control and subject to the orders of Helm. But, independently of this, the evidence is irresistible that the cargo was destined for the enemy's country.

The test oaths, both of Harris and of Samuel Isaac, when examined carefully, fall far short of a frank and clear statement of an innocent destination for the vessel and cargo. The test oath of Harris says that the true and only destination of the vessel, with the cargo, was Cardenas, "where the same was to be delivered." This oath would be satisfied by a delivery of the cargo in bulk at Cardenas to Helm, and its transshipment there to another vessel, to be carried to a port of the enemy, in pursuance of such an original destination. It does not state that the destination of the cargo was not to a port of the enemy. And it states, in very suspicious language, that it was not intended that the vessel should enter, or attempt to enter, any port of the United States, but it does not state that it was not intended that the vessel or her cargo should enter or attempt to enter, any port of the enemy of the United States, or any port blockaded by the naval forces of the United States. In all these particulars the test oath of Samuel Isaac to the claim for the cargo holds the same suspicious language, and is wanting in the same averments. The court searches in vain through these test oaths to find those full and honest allegations which should characterize the test oath to a claim made by a neutral really engaged in lawful and innocent commerce.

I shall now review the evidence in the case, in order to see to what conclusion it leads. Captain Dyett says, (Int. 4,) that he does not remember seeing any "southern flag" on board of his vessel, although he says that if the "southern flag" were put before him he should not know it. He admits, however, that besides the English colors, under which the vessel sailed, and the American flag, "that is, the stars and stripes," there were other flags in the vessel's bag. Chadwick says, (Int. 4,) that they had the "confederate" flag on board, and cut up the American flag to make a burgee of it. A "burgee" is defined by lexicographers to be "a distinguishing flag or pennant." Leisk says, (Int. 4,) that the vessel had an American flag on board, and another flag that looked similar to the American flag. Nellman says, (Int. 4,) that she had the American ensign, which was cut up on the voyage to make a burgee of, and also "a flag of the Confederate States of America;" that he saw that flag a few days before the capture in the sail cabin, in a bag with the burgee; and that, on the day of the capture, he found the burgee on the floor in the main cabin, and made thorough search for "the confederate flag" but could not find it. Allan says, (Int. 4,) that they had the American colors on board, and another flag with stars and stripes, "but not as many stars as the old American flag;" and that he does not know whether that was the "confederate flag" or not, as he never saw one to know it, unless that was one. Chadwick, on his re-examination, (Int. 39,) says that after the capture of the vessel, and while the captors were in charge, he took this "confederate flag" from where it was hid in his clothes-bag, and threw it overboard; and that this flag was intended to be displayed in connexion with a peculiar one, called the "Isle of Man's flag," or signal, "which was adopted by the southern States as a signal for a friendly vessel wishing to enter, and which should be protected, as far as possible,

by them." This signal flag was probably the burgee of which the witnesses speak.

Captain Dyett says, (Int. 3,) that the schooner was captured about eighty-two miles from Point de Yeacos, in Cuba. Chadwick says, (Int. 3,) that the capture took place between Cuba and Key West, near the coast of Florida. Nellman and Allan say, (Int. 3,) that the capture took place about thirty miles from Key West. Captain Dyett says, (Int. 19,) that the capture took place about twenty-five miles from Key West, and (Int. 36) about eighty-two miles from Cardenas.

Captain Dyett says, (Int. 11,) that the vessel was bound for Cardenas; that the contents of her cargo were unknown to him, except that he saw some cases marked "long Enfield," which he supposed contained "long Enfield guns," and he thinks he saw a few bales marked "socks;" and that at Erith, below London, on the Thames, some packages were taken in stamped "ball cartridges;" but, he says, "she had no goods on board which were contraband of war, or otherwise prohibited by law." He also says, (Int. 39,) that he cannot state any thing further in regard to the real and true property and destination of the vessel and cargo, except that, after he had discharged his cargo, he was to proceed to Sierra Leone, as stated in his letter of instructions. Chadwick, on his first examination, (Int. 11,) says that they were bound to Cardenas; that the cargo consisted of powder and munitions of war; that (Int. 39) he understood from the captain and the shipping articles that they were bound to Cardenas, and from there to Sierra Leone; and that he knows nothing beyond that. Leisk says, (Int. 11,) that the vessel was bound to Cardenas and Sierra Leone; that he knew that her cargo, consisting of arms, powder and soldiers' equipments, was contraband of war; and (Int. 39) that he knows nothing about the destination of the vessel and cargo, except that they were bound to Cardenas.

Nellman says, (Int. 11,) that the vessel was bound to Cuba, Sierra Leone, or the West Indies, or some port in North or South America; and that he does not know to which of those several ports or places they were bound first. In this particular he confirms the very ambiguous and alternative language in the shipping articles. He also says, (Int. 11,) that the cargo consisted of Enfield rifles, powder, cartridges, shot, shells, soldiers' accoutrements, such as knapsacks, belts and pouches, and some heavy boxes, which he thinks contained small cannon; and that the lading consisted entirely of warlike stores and articles. He thus manifests a knowledge of the cargo, which is in striking contrast with Captain Dyett's ignorance.

Nellman says, (Int. 11,) that he thinks that these goods are contraband of war. Captain Dyett, however, (Int. 11,) says that Enfield rifles and ball cartridges are not contraband of war. Allan says, (Int. 11,) that the vessel was bound to Cuba; and that the captain said he was going to Cardenas, and from there to the coast of Africa. As to the cargo, Allan says, (Int. 11,) that he had seen boxes marked "long Enfields," which he took to be guns, and had heard there was powder, and had seen bales of blankets and other military equipments, and believes that she had a general cargo of arms and munitions of war.

Captain Dyett says, (Int. 14,) that he does not know who owns the cargo, but his impression is that it belongs to Isaac, Campbell & Co.; that (Int. 16) he does not know who were the laders of the cargo, or for whose risk and account the goods were, or what interest Major Helm had in them; and that he does not know to whom they would belong, if restored and delivered at their destined port. Chadwick says, (Int. 14,) that he heard in London that Isaac, Campbell & Co. owned the cargo. Nellman says, (Int. 14,) that he believes the cargo is owned "in the Confederate States of America;" that he

heard Chadwick say so; that he never heard anything further concerning the cargo and its owners, except that Mr. Chadwick told him that the cargo was going to some place in "the Confederate States," and professed to know all about it. He also says, (Int. 16,) that Mr. Hughes, who he believes is an agent for "the Confederate States," put the cargo on board, and was the lader thereof, and seemed to be the principal man, and had the most to say about the vessel and cargo; that the goods were to be delivered in the southern States, at some port therein, and he thinks for the account or benefit of some person in those States; and that he believes, from what he heard on board the vessel, that the cargo was destined for some port in the southern States, either to be carried there in that vessel, or to be transshipped and put in another vessel for the same purpose. He also says, (Int. 24,) that he thinks that the vessel was in reality bound for Cuba, and that, after arriving there, she would have received instructions as to what particular port or place she would go to in the southern States, or as to whether the cargo should be transshipped and put on board another vessel; and that Chadwick told him that a steamer would receive the cargo at Cuba very probably, and would carry it thence to some southern port.

Captain Dyett says, (Int. 17,) that he signed four bills of lading for the cargo, which were prepared by the broker and laid before him to sign; that he signed them without reading them, and does not know their contents; and that he had no bill of lading on board when he sailed, or at any time before his capture. He also says, (Int. 31,) that he signed a manifest before the collector of London, and left it at the office of the brokers, Speyer & Haywood, in London, and has not seen it since; that the manifest was in the usual form, and made from the bills of lading; and (Int. 17) that the bills of lading and manifest were to be forwarded to him at Cardenas. He also

says, (Int. 18,) that there were no invoices on board of the vessel.

Captain Dyett, on the capture of the vessel, did not give up to the prize-master the letter of instructions from S. Isaac, Campbell & Co. to him, or the letter from Saul Isaac to Charles J. Helm, of November 19, 1861. He only produced them on his examination *in preparatorio*, after his arrival at New York, in answer to the searching inquiries of the standing interrogatories. He says, (Int. 20,) that he did not give up those letters to the prize-master, because he did not know that he was bound to give them up. Yet he says, (Int. 18,) that he gave to the prize-master his ship's log-book, his official log-book, and his desk, with all the papers therein, being his private papers and in no way relating to the vessel; and among the papers which he so gave up is found the comparatively unimportant letter from Saul Isaac to the British consul at Havana, and the telegraphic despatches and official papers of the vessel, which were calculated, on their face, to show a fair and honest voyage from London to Cuba. The two letters which he did withhold, namely, the instructions to himself and the letter to Helm, were the only documents on board which in any way connect Mr. Helm with this vessel and her cargo. This withholding or temporary suppression of those two letters, whose character and contents I have already commented upon, is one of those circumstances which are always regarded with suspicion, particularly where the suppression is made by a master. I shall have occasion to refer to this point hereafter, in connexion with the attempted suppression of important papers by Chadwick. That the suppression of these letters by Captain Dyett was premeditated, is shown by the testimony of Nellman, who says, (Int. 18,) that Captain Dyett had a letter with him directed to some one, and that he heard him and Chadwick talk about it an

hour or so before the capture, just when the capturing vessel was firing her first shot.

Chadwick says, (Int. 18,) that he had some private letters from his wife and friends, which he gave to Leisk, the cook, to take care of, and that Leisk gave them up to some of the capturing officers. Leisk says, (Int. 32,) that he had some papers belonging to Chadwick which he, Leisk, put into a teapot, where they were found by the searching officer; and that they were put there by the orders of Chadwick, to keep them out of sight. Nellman says, (Int. 20,) that Chadwick, a few minutes before the capture, gave some papers to Leisk, with directions to put them in a teapot in the galley, for the purpose of concealing them, but that they were found by the United States officers. Allan says, (Int. 12,) that he saw a bunch of papers taken out of the teapot by the boarding officer, and that, when they were found, the officer asked Leisk what they were, and Leisk said he thought it was tea.

On his re-examination (Int. 32) Leisk says that some papers were given to him by Captain Dyett on the evening of the day they were captured, which Captain Dyett had put at the foot of his berth. Leisk says: "He told me, if he sent for these papers, I should know where to find them. He then went on board the Supply. When he returned, I asked him if he wanted those papers. He said he had already got them. This conversation was between us, there being no other person within hearing. We were in his state-room at the time, with the door closed." We have no explanation from any witness as to what those papers were. As to the papers which Leisk received from Chadwick and put into the teapot, where they were found by the boarding officer, Leisk says, on his re-examination, "When the first officer handed me those papers, he seemed anxious and uneasy, and when he returned to the schooner to get his clothes, the first thing he said to me was,

'Have you got those papers?' I told him they were found by the officer. He then said, 'Why in hell did you not destroy them?' And likewise, 'By God, I am done!' "

Three of the papers which were concealed in the teapot, and which Chadwick speaks of as private letters, are letters to Chadwick containing some very important matter. One of them is dated at Bristol, England, October 29, 1861, and is addressed to Chadwick by a person who signs himself "R. H. Leonard, ship Alexander, Confederate States." Leonard expresses his pleasure that he is able to furnish Chadwick with "the book required," without price. He refers to it as a book which Chadwick had written for, says that it belongs to him, Leonard, and that, if it were worth £50, he would willingly give it to an enterprise of Chadwick's, and hopes it may be of valuable service to him. This book is the copy of the United States Coast Survey that was found on board of the vessel, containing charts, as has been seen, for entering very many of the blockaded ports of the enemy. In his testimony, given on his re-examination, Chadwick refers particularly to this book of charts as one which he recommended to his employers to purchase, and which they told him to purchase at any price. He says that he obtained one, which was presented to him by "R. H. Leonard, the mate of the ship Alexander, then lying in Bristol." Those employers, Chadwick states, in his deposition on re-examination, to have been Mr. Hughes, "the commercial confederate agent for purchasing arms and ammunition for, and shipping the same to, the Confederate States," "William L. Yancey, of the United States," a South Carolina captain, named Connor, and Mr. Saul Isaac.

In the same letter Leonard says, "Captain Johnson will mark out the chart; also the route, with some information; also write a letter which he will wish you to deliver or forward. Mrs. Bain will also have a letter for you to take, and forward

to Virginia, if you arrive safe. I hope you may be successful. If so, report the old Alexander laying up at Bristol, with the palmetto tree constantly flying, and that her captain and officers are ready to aid the south in any enterprise. Tommy, I will not ask you to disclose the secret of your voyage. Be whatever it may, I believe it is true to the south. My heart and well wishes are with you, hoping you may be successful, and I may hear of the consequences. If that book prove serviceable to you, it will afford me more pleasure than its weight in gold in return. * * * * I shall send the book by express this evening. I wish you to write me two or three mails before you put to sea, as Mrs. Bain will have some other letters to send. If you should fail, destroy."

Chadwick, on his re-examination, states that he received a letter from Captain Johnson, of the ship Naomi, of Charleston, S. C., giving him a description of the entrance to Charleston, and also received from him letters for his wife, and for other persons residing in the "Confederate States." In confirmation of this, we find that another of the three letters, being one dated at Bristol, England, October 29, 1861, and signed "John Johnson, ship Naomi," and addressed to "Mr. Benjamin H. Chadwick, schooner Stephen Hart, Surrey Canal, London," says: "Mr. Leonard, chief officer of the ship Alexander, and I, had some private conversation this morning concerning some things, which I need not now repeat." Johnson then proceeds to give specific directions as to the mode of entering the harbor of Charleston, and adds: "The chart of Charleston harbor, in the book called the U. S. Coast Survey, will be your best guide." He also says: "Enclosed is a letter, and I beg that you will, in case you succeed in safely reaching any southern port, forward the same to its destination. At the same time, do not let its incumbrance in any way interfere with your enterprise. Destroy it, if need be; but, if it could

be managed to forward it safe to my wife, I should feel very grateful towards you for your kindness. I hope and trust that you will succeed in your undertaking. Observe secrecy, by all means, and I can assure you that no information as regards the Stephen Hart's whereabouts or movements shall be gained from me by any one here or elsewhere. * * * May the God of Justice guide you in safety to your port of destination is the fervent wish of one who loves the south, its institutions, and its people."

The remaining one of the three letters is from Leonard, and is addressed "to Mr. B. H. Chadwick, *alias* Tommy, first officer, Stephen Hart," and is written at Bristol, England, but without date. It says, among other things, "give me the particulars of your voyage, what your cargo consists of, and if you have got any guns on board."

The suppression by Captain Dyett, until his examination *in preparatorio*, of the letter of instructions to him from S. Isaac, Campbell & Co., and of the letter from Saul Isaac to Helm, and the attempt by Chadwick to conceal the letters from Leonard and Captain Johnson, are circumstances of great importance, as tending to show the illicit and fraudulent character of the entire transaction connected with this vessel and her cargo, and that Captain Dyett and Chadwick were concerned in carrying out the unlawful purpose, and endeavored to promote that end by attempting to conceal the evidence which they had in their possession. The spoliation of papers is a strong circumstance of suspicion. (1 Kent's Comm., 157.) It is not, however, either in England or in the United States, held to furnish, of itself, sufficient ground for condemnation, but is a circumstance open to explanation. (The Hunter, 1 Dodson, 480; The Pizarro, 2 Wheaton, 227.) But, if the explanation be not prompt and frank, or be weak or futile, if the cause labors under heavy suspicions, or if there be a vehe-

ment presumption of bad faith or gross prevarication, it is ground for the denial of further proof, and the condemnation ensues from defects in the evidence, which the party is not permitted to supply. (1 Kent's Comm., 158; The Pizarro, 2 Wheaton, 227; Bernardi *vs.* Motteaux, Doug., 554, 559, 560.) In the case of The Two Brothers, (1 Ch. Rod., 131,) the master had burned some letters, before capture, which he said were only private letters. Sir William Scott says, in commenting upon that circumstance: "No rule can be better known than that neutral masters are not at liberty to destroy papers; or, if they do, that they will not be permitted to explain away such suppression by saying, 'they were only private letters.' In all cases it must be considered as a proof of *mala fides;* and, where that appears, it is a universal rule to presume the worst against those who are convicted of it. It will always be supposed that such letters relate to the ship or cargo, and that it was of material consequence to some interests that they should be destroyed." In the case of The Rising Sun, (2 Ch. Rob., 104,) Sir William Scott says: "Spoliation is not alone, in our courts of admiralty, a cause of condemnation; but, if other circumstances occur to raise suspicion, it is not too much to say, of a spoliation of papers, that the person guilty of that act shall not have the aid of the court, or be permitted to give further proof, if further proof is necessary."

The withholding by the master of the two letters, in the present case, until his examination, while he gave up to the captors the letter to the British consul at Havana, and, as he says, all his own private papers, would have been a complete suppression of the two letters in question, if their production had not been compelled by the stringent character of the standing interrogatories. In the case of The Concordia, (1 Ch. Rob., 119,) the master withheld his instructions until the time of his examination. Sir William Scott says: "This was certainly

incorrect. It is a master's duty to produce all his papers, and least of all to withhold his instructions, which are very important papers to be communicated for the interest of both parties." So, also, the concealment by Chadwick of the letters to him, which showed the true character of the enterprize of the Stephen Hart, would have been as effectually a destruction of those papers, for the purposes of this case, if they had not been found upon the search, as if they had been actually thrown into the sea and lost. And the suspicion which the law attaches to a spoliation of papers arises with equal force from an attempted spoliation.

That Captain Dyett and all of his crew knew of the blockade of the enemy's ports, is abundantly established by the evidence. Nellman says, (Int. 21,) that "all on board knew that the southern States, including Florida, were in a state of war with the United States, and the southern ports blockaded by the United States navy." "It was a matter of conversation on board during the voyage." Captain Dyett says, (Int. 21,) "I knew of the rebellion in the southern States, and that some of the southern ports were blockaded."

Captain Dyett says, (Int. 36,) that the vessel was steering for Cardenas when she was captured, and that her course was not altered upon the appearance of the capturing vessel. Chadwick, on his first examination, (Int. 36,) says the same thing. Nellman says, (Int. 36,) that when they first saw the capturing vessel, about six o'clock in the morning, the Stephen Hart was standing toward Key West, and continued on that course until about twelve o'clock, when she tacked and steered towards Havana, and was steering towards Havana when captured; that their course, at all times when wind and weather permitted, was towards Cardenas, except in the instance mentioned, and except when obliged to pursue another course on account of head winds; and that the latter was the reason why

the vessel was steering towards Havana at the time of her capture. Nellman says that he had the watch when the capturing vessel was first seen; and that Chadwick had the watch from eight a. m. until noon, and he, Nellman, again from noon to four o'clock. Nellman (Int. 19) and Allan (Int. 3) say that the capture was made about two o'clock p. m. Although Captain Dyett, and Chadwick on his first examination, say, (Int. 36,) that the course of the vessel was, at all times when wind and weather would permit, towards Cardenas, yet it is apparent that she set out from England with the intention of running the blockade if she could, and she was captured in a position consistent with that intention.

The evidence which has been reviewed establishes, beyond reasonable doubt, that the cargo of the Stephen Hart was intended, on its departure from England, to be carried into the enemy's country, for the use of the enemy, by a violation of the blockade of some one of the enemy's ports, either in the Stephen Hart or in another vessel into which the cargo was to be transshipped, for the purpose of being transported by sea to the enemy's country. This is clearly established without the aid of the testimony given by Chadwick on his re-examination. Some portions of that testimony have been incidentally alluded to. The other main facts detailed by Chadwick on his re-examination are entirely consistent with all the rest of the evidence in the case, and are corroborated by that evidence. Some of the points of corroboration have been already alluded to, and I shall refer to others.

Chadwick says, on his re-examination, (Int. 11:) "The vessel was bound to Cardenas, in Cuba, but the destination of her cargo was certainly to one of the Confederate States, and the vessel was, in like manner, so destined, if Charles J. Helm, the confederate agent at Cuba, should so direct. That voyage began in London, and was to have ended at Cardenas,

or any port in the Confederate States which the aforesaid confederate agent should direct." He also says, (Int. 36:) "The vessel was steering for Cardenas, but that port was to be used only as an intermediate point of call, and of transhipment of the cargo, if necessary, or ordered by Charles J. Helm." He also says, (Int. 39,) that after he had gone in the vessel, then called the Tamaulipas, from New Orleans, by the way of Havana and Matanzas, to Falmouth and Bristol, England, and thence in the same vessel to London, he was requested to go to No. 71 Jermyn street, London. He adds: "I accordingly went, and was there introduced to Mr. Isaacs, the head of the firm of Isaacs, Campbell, & Co., and also to a Mr. Hughes, whose first name I did not learn, and who told me he was the commercial confederate agent for purchasing arms and ammunition for, and shipping the same to, the Confederate States. He asked me how I would like to run the blockade of the southern States in the Stephen Hart. I answered, 'that I would sooner go in a steamer.' There was no definite arrangement made at that time. I was again sent for and went to the same place, where I met Mr. Isaacs, the same Captain Hughes, and William L. Yancey, of the United States. There was also a South Carolina captain there. I was taken by Captain Hughes and this South Carolina captain (whose name was Connor) into another room, and there fully examined in regard to my knowledge of the southern coast of the United States. I was then employed by Captain Hughes as a pilot agent, and to leave the Stephen Hart and go on board of a steamer which he had chartered, and which was then taking in a cargo of arms and ammunition for the Confederate States. I was to leave the Stephen Hart, go ashore and take lodgings, and observe secrecy until I was called, which I did. About a week afterwards I was told to go on board of the steamer Gladiator, then lying in the

Thames, and examine and see if she had proper boats for landing her cargo in the surf on the southern coast, if required, and report to Hughes. I did so, and reported that she had, with the exception of one boat. I was then ordered to take my things on board of that vessel (the Gladiator) and proceed in her to Nassau, and there either obtain a pilot for her, or else pilot her myself into some southern port of the Confederate States between Cape Canaveral, in Florida, and York river, Virginia. I went aboard accordingly. That vessel was loaded with arms, ammunition, and army outfits. After I got aboard it was found that she could not carry all the cargo which had been bought for her, and, accordingly, what portion thereof could not be taken by the Gladiator was put aboard of the Stephen Hart, together with other like cargo, to fill her up. I was ordered to proceed from the Gladiator and take charge of the loading and fitting out of the Stephen Hart, which I did. On my recommendation to Captain Hughes, Captain Dyett was appointed master of the Stephen Hart, while I was to go in her nominally as mate, but really in charge of the cargo, consisting of arms and munitions of war. The vessel proceeded down the Thames several miles and there took aboard a quantity of powder." Nellman (Int. 30) testifies to the same effect as to the place where the powder was taken on board. Chadwick proceeds: "Before the Stephen Hart left I was instructed by Captain Hughes to proceed to Cuba, that is, to Cardenas, and there to work under the instructions of Charles J. Helm, the agent for the 'Confederate States' at that place. He said the cargo was to be transshipped into a steamer which could be used with greater facility in running the blockade, or she might be ordered to proceed herself." The connexion of Hughes with the transaction, and his being an agent for the "Confederate States," and the lader of the cargo on board of the Stephen Hart, are also testified to by Nellman, (Int. 16.) The contents

of the letter of instructions to Captain Dyett confirm all that Chadwick says on his re-examination as to the connexion of Helm with the matter, and as to the certain destination of the cargo and the contingent destination of the vessel being to a port of the enemy. It is stated by Nellman, (Int. 14,) that he heard Chadwick say that the cargo was going to the enemy's country, and (Int. 24) that a steamer would receive it at Cuba very probably, and would carry it thence to a port of the enemy. And it is apparent, from what Nellman says, (Int. 14,) that it was understood on board of the Stephen Hart that the cargo was destined for a port of the enemy, and was to be carried there in that vessel, or to be transshipped to another vessel for the same purpose. Chadwick proceeds: "The agreement was that I should have $45 a month for all the time I was employed, including any time I might be detained or imprisoned in consequence of any attempt to run the blockade; and if I had gone in the Gladiator I was to have received a bounty of $500; and in the Stephen Hart, if ordered by Helm to cross the blockade, I was to have a bonus, to be agreed upon with him." The shipping articles confirm this statement of Chadwick's to a certain extent, as they show that his wages were to be £9 per month. They also show that the wages of the mate, whose place he took, were only £6 per month. He then goes on to state, as he had already stated in his affidavit upon which the order for his re-examination was made, that he was induced to state these facts, not by any persons in any way connected with the libellants or captors, but solely by the persuasions of his wife, "who is a loyal woman, and now residing in Boston."

The absence from on board the Stephen Hart of the bills of lading and manifest, to whose existence the master testifies, and of all invoices of the cargo, has been already referred to. The absence of these papers, in time of war, is a suspicious

circumstance, as affecting the question of the neutrality of the cargo and the honesty of the trade. (1 Kent's Comm., 157; Halleck on International Law, chapter 25, section 25, page 622.)

It has been strongly urged upon the court, in the present case, that as Harris, the alleged owner of the vessel, is not shown to have any interest in any of the cargo, the vessel can be visited with no greater penalty for carrying contraband articles, even though they were intended for the enemy, than the loss of freight and expenses. But, even on the assumption that the grounds already set forth in respect to the real ownership of the vessel are not sufficient for her condemnation, the court is of opinion that her condemnation must, under the circumstances, follow the condemnation of the cargo, the latter being contraband of war, and intended, on its departure from England, to be carried into the enemy's country by a violation of the blockade. The contingent destination of the vessel to a blockaded port would be sufficient, under the authority of the case of The Richmond, before cited, to warrant her condemnation. But even if her destination was only to Cardenas, yet, as her cargo was intended, on its departure from England, to be introduced into the enemy's country, by being transshipped from the vessel at Cardenas, condemnation must equally follow, because of the employment of the vessel in this unlawful enterprise, under the circumstances disclosed in this case. As testified to by Captain Dyett, there was no charter-party for the voyage. He says that he was put in charge of the vessel, not by Harris, her alleged owner, but by S. Isaac, Campbell & Co., the claimants of the cargo. No instructions from Harris to Captain Dyett are found, but only instructions to him from S. Isaac, Campbell & Co. Harris, therefore, surrendered the entire control of his vessel to that firm, and her master must be regarded as their agent, and the

claimant of the vessel must be held responsible for the use to which the master and the claimants of the cargo put the vessel. (Jecker *vs.* Montgomery, 18 Howard, 110, 119.) That use was the carrying, for a portion of the distance on its way to the enemy's country, of a cargo contraband of war, intended for the use of the enemy, and to enter the enemy's port by a violation of the blockade. This use of the vessel was, under the authorities before cited, unlawful in its inception, and, the entire transportation of the cargo from England to the enemy's country being unlawful, the vessel must be condemned for having been permitted, by Harris, to be used, at the pleasure of S. Isaac, Campbell & Co., in carrying out a portion of the unlawful purpose. Such use was, under the circumstances, in judgment of law, with the knowledge and assent of Harris. Chadwick, on his re-examination, (Int. 39,) states that Harris wished him to continue in the Stephen Hart as mate; "that either she would go to, or else he would put me on board of another vessel to go to the Confederate States."

In the case of The Ringende Jacob, (1 Ch. Rob., 89,) Sir William Scott says that, under the ancient law of Europe, the carrying of a contraband cargo rendered the vessel liable to condemnation; but that, in the modern practice of the courts of admiralty of England, a milder rule has been adopted, and that the carrying of contraband articles is attended only with the loss of freight and expenses, "except where the ship belongs to the owner of the contraband cargo, or where the simple misconduct of carrying a contraband cargo has been connected with other malignant and aggravating circumstances." And he cites as an exception a case attended with particular circumstances of falsehood and fraud, both as to the papers and the destination of the voyage, and in which there was an attempt, under colorable appearances, to defeat the rights of the belligerent. The same doctrine is laid down

in the case of The Jonge Tobias, (1 Ch. Rob., 329.) In the case of The Franklin, (3 Ch. Rob., 217,) a neutral vessel, ostensibly bound to a neutral port, and whose cargo consisted of several articles which were contraband if going to the enemy, was held by Sir William Scott to have been captured while really on her way to a port of the enemy. He says: "I have had frequent occasion to observe that it is very difficult to detect a fraud of this species in the particular instances. Pretences and excuses are always resorted to, the fallacy of which can seldom be completely exposed; and therefore, without undertaking the task of exposing them in the particular case, the court has been induced (and I hope not unwarrantably) to hold generally in each case that the certain fact shall prevail over the dubious explanations." "I am satisfied, on the facts of this case, that it was the plan of the voyage to carry the ship fraudulently, under a false destination, into a Spanish port. The consequence will be that this fraudulent conduct on the part of those who are concerned in the ship will justly subject her to confiscation. Anciently the carrying of contraband did, in ordinary cases, affect the ship, and, although a relaxation has taken place, it is a relaxation the benefit of which can only be claimed by fair cases. The aggravation of fraud justifies additional penalties." He then announces it as the settled rule of law, "that the carriage of contraband, with a false destination, will work a condemnation of the ship as well as the cargo." In that case the owner of the ship was not the owner of the cargo, but, being himself a neutral, had entered into a charter-party for a voyage of the vessel from one neutral port to another neutral port. In a note to the case these very appropriate remarks are made: "The relaxation of the old rule has been directed, in its practical application, as well as in its origin, only to such cases as afford a presumption that the owner was innocent, or the master deceived. Where

the owner is himself privy to the transaction, or where his agent interposes so actively in the fraud as to consent to give additional cover to it by sailing with false papers, all pretence of ignorance or innocence is precluded, and there seems to be no further ground, consistent with equity and good sense, upon which the relaxation in favor of the ship can any longer be supposed to exist." The same principles are laid down in the case of The Mercurius, (1 Ch. Rob., 288,) The Edward, (4 Ch. Rob., 68,) and The Neutralitet, (3 Ch. Rob., 295.) In the latter case Sir William Scott says that, where a vessel is carrying contraband articles under a false destination or false papers, those circumstances of aggravation constitute excepted cases out of the modern rule, and continue them in the ancient one. In The Ranger, (6 Ch. Rob., 125,) which was the case of an American vessel with a cargo which was documented for a neutral port, but was going to the enemy's port, and was condemned as contraband, Sir William Scott says: "I also condemn the vessel, as employed in carrying a cargo of sea stores to a place of naval equipment under false papers. It is described, I perceive, as an American vessel. But if the owner will place his property under the absolute management and control of persons who are capable of lending it in this manner to be made an instrument of fraud in the hands of the enemy, he must sustain the consequences of such misconduct on the part of his agent." In the Oster Risoer, (4 Ch. Rob., 199,) Sir William Scott held that a master could not be permitted to aver his ignorance of the contents of contraband packages on board of his vessel; that he was bound, in time of war, to know the contents of his cargo; and that, if a different rule could be sustained, it might be applied to excuse the carrying of all contraband.

One important circumstance to show that the cargo of the Stephen Hart was intended for the enemy is the fact that a

part of it consisted of ninety thousand buttons, marked with the initials, "C. S. A.," which it is well understood stand for the words "Confederate States of America," or "Confederate States' Army," the buttons being such as are used on army clothing for the three services of an army.

This review of the facts in this case leads to the conclusion that the vessel and her cargo must both of them be condemned. No doubt is left upon the mind that the case is one of a manifest attempt to introduce contraband goods into the enemy's territory by a breach of blockade, for which the vessel must be held liable to forfeiture, as well as her cargo. Chadwick was evidently employed by reason of his being a citizen of the United States, familiar with the enemy's country, and qualified to conduct the vessel into one of the blockaded ports. The vessel was captured in a position convenient for running the blockade. The cargo consisted of arms, munitions of war, and military equipments, and, among them, a large quantity of military buttons, stamped in such a manner as to render them capable of no appropriate use save for the infantry, cavalry, and artillery of the enemy's army, thus showing that the enemy's country was their only appropriate destination. The absence of the manifest and bills of lading is not satisfactorily accounted for, and the want of any invoices and of any charter-party is a circumstance of great weight against the lawfulness of the commerce. The attempt, by the master, to suppress his letter of instructions and the letter to Helm, the agent of the enemy in Cuba, and the attempt of the mate to conceal the letters which show that the design was that the Stephen Hart should, under his guidance, enter a blockaded port of the enemy, and which also contain specific directions for entering the harbor of Charleston, justify the conclusion that Charleston, or some other port of the enemy, was the real destination of the vessel and her cargo.

The absence of any charter-party, and of any instructions from Harris to Captain Dyett, and the entire surrender by Harris of the control of the vessel to the laders of the cargo, and to the master as their agent, involve the vessel in all the guilt which attaches to the cargo. The object of carrying the flag of the enemy could only have been that it might be used for the purpose of entering the enemy's ports—a conclusion strengthened by the fact that it was thrown overboard at the time of the capture. The charts found on board are charts of such a character as to enable a vessel to enter many of the blockaded ports. The letter concealed by the mate, which contains directions for entering the harbor of Charleston, is one which he had a motive to preserve by concealing and not to destroy, because, upon the regular papers of the vessel, he must have indulged the hope that she would have been permitted, after a search, to proceed upon the voyage indicated by her papers, and thus, that the letter in question would afterwards become useful on a further voyage to the port of the enemy. There is an absence of all papers and circumstances to warrant the conclusion that there was any intent to dispose of the cargo at Cardenas in the usual way of lawful commerce. The consignee of the entire cargo was the agent of the enemy, and the cargo was laden on board by the agent of the enemy in London. The asserted ignorance of the master as to the contents of his cargo, and as to the fact that arms are contraband of war, and the ambiguous destination set out in the shipping articles, are circumstances which, with many others, go to swell the volume of suspicion attaching to the enterprise. In addition to all this, there is the positive evidence which has been referred to, particularly of Chadwick and Nellman, as to the actual destination of the cargo. All the material facts of the case, which lead to a condemnation,

are proved without any resort to the re-examinations either of Leisk or of Chadwick.

This is not a case for further proof, and no application has been made on the part of the claimants to supply any further proof as to any point. There must, therefore, be a decree condemning both the vessel and her cargo.